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**ANNALS**

**OF**

**THE CONGRESS OF THE UNITED STATES.**

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**FIFTEENTH CONGRESS.—FIRST SESSION.**

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THE  
DEBATES AND PROCEEDINGS  
IN THE  
CONGRESS OF THE UNITED STATES;  
WITH  
AN APPENDIX,  
CONTAINING  
IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,  
AND ALL  
THE LAWS OF A PUBLIC NATURE;  
WITH A COPIOUS INDEX.

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FIFTEENTH CONGRESS—FIRST SESSION.  
COMPRISING THE PERIOD FROM DECEMBER 1, 1817, TO APRIL 20, 1818,  
INCLUSIVE.

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COMPILED FROM AUTHENTIC MATERIALS.

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WASHINGTON:  
PRINTED AND PUBLISHED BY GALES AND SEATON.  
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1854.



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# PROCEEDINGS AND DEBATES

OF

## THE SENATE OF THE UNITED STATES,

AT THE FIRST SESSION OF THE FIFTEENTH CONGRESS, BEGUN AT THE CITY OF  
WASHINGTON, MONDAY, DECEMBER 1, 1817.

MONDAY, December 1, 1817.

The first session of the Fifteenth Congress, conformably to the Constitution of the United States, commenced this day, at the City of Washington; and the Senate assembled in their Chamber.

PRESENT:

DAVID L. MORRIL and CLEMENT STORER, from the State of New Hampshire.

JAMES BURRILL, jr., from Rhode Island and Providence Plantations.

ISAAC TICHENOR and JAMES FISK, from Vermont.

DAVID DAGGETT, from Connecticut.

RUFUS KING and NATHAN SANFORD, from New York.

JAMES J. WILSON and MAHLON DICKERSON, from New Jersey.

ARNER LACOCK and JONATHAN ROBERTS, from Pennsylvania.

JAMES BARBOUR and JOHN W. EPPES, from Virginia.

NATHANIEL MACON, from North Carolina.

JOHN GAILLARD and WILLIAM SMITH, from South Carolina.

CHARLES TAIT, from Georgia.

JOHN J. CRITTENDEN, from Kentucky.

JOHN WILLIAMS, from Tennessee.

BENJAMIN RUGGLES, from Ohio.

JAMES NOBLE and WALLER TAYLOR, from Indiana.

JOHN GAILLARD, President *pro tempore*, resumed the Chair.

CLEMENT STORER, appointed a Senator by the Legislature of the State of New Hampshire, to supply the vacancy occasioned by the resignation of Jeremiah Mason; JAMES FISK, appointed a Senator by the Legislature of the State of Vermont, to supply the vacancy occasioned by the resignation of Dudley Chase; JOHN J. CRITTENDEN, appointed a Senator by the Legislature of the State of Kentucky, for the term of six years, commencing on the fourth day of March last; JOHN WILLIAMS, appointed a Senator by the Legislature of the State of Tennessee, for the term of six years, commencing on the fourth day

of March last, respectively, produced their credentials, which were read; and the oath prescribed by law was administered to them, and they took their seats in the Senate.

JOHN W. EPPES, appointed a Senator by the Legislature of the State of Virginia, for the term of six years, commencing on the fourth day of March last, stated that he had received his credentials, but had neglected bringing them with him, expecting that the Executive of Virginia would forward a duplicate thereof to the Senate, and which he still supposed would speedily be done: whereupon, the oath prescribed by law was administered to him, and he took his seat in the Senate.

On motion by Mr. MACON, the Secretary was ordered to acquaint the House of Representatives, that a quorum of the Senate is assembled, and ready to proceed to business.

On motion by Mr. BARBOUR, a committee was appointed to inquire whether any, and if any, what legislative measures may be necessary, for admitting the State of Mississippi into the Union; and Messrs. BARBOUR, KING, and WILLIAMS, of Tennessee, were appointed the committee.

Mr. BARBOUR presented a copy of the constitution and form of government, as adopted for the State of Mississippi; which was read, and referred to the said committee to consider and report thereon.

On motion by Mr. LACOCK,

*Resolved*, That each Senator be supplied, during the present session, with three such newspapers, printed in the United States, as he may choose, provided the same be furnished at the usual rate, for the annual charge of such papers; and provided, also, that if any Senator shall choose to take any newspapers, other than daily papers, he shall be supplied with as many such papers as shall not exceed the price of three daily papers.

Messrs. TICHENOR and MACON were appointed a committee, on the part of the Senate, to join such committee as may be appointed on the part of the House of Representatives, to wait on the President of the United States, and notify him

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that a quorum of the two Houses is assembled, and ready to receive any communication which he may be pleased to make to them.

A committee was appointed, agreeably to the 42d rule, for conducting business in the Senate, and Messrs. LACOCK, DICKERSON, and DAGGETT, were appointed the committee.

A committee was also appointed, agreeably to the 22d rule, for conducting business in the Senate; and Messrs. CRITTENDEN, DICKERSON, and RUGGLES, were appointed the committee.

Mr. TICHENOR submitted the following motion for consideration, which was read:

*Resolved*, That a committee of three members be appointed, who, with three members of the House of Representatives, to be appointed by that House, shall have the direction of the money appropriated to the purchase of books and maps, for the use of the two Houses of Congress.

The resolution was ordered to the second reading, and on motion by Mr. WILSON, it was read a second time by unanimous consent, and considered as in Committee of the Whole; and no amendment having been proposed, the PRESIDENT reported it to the House.

On the question, "Shall this resolution be engrossed and read a third time?" it was determined in the affirmative. The resolution was then read a third time by unanimous consent, and passed; and Messrs. DICKERSON, KING, and TAIT, were appointed the committee.

On motion by Mr. TICHENOR,

*Resolved*, That Mountjoy Bayly, Doorkeeper and Sergeant-at-Arms to the Senate, be, and he hereby is, authorized to employ one assistant and two horses, for the purpose of performing such services as are usually required by the Doorkeeper of the Senate, which expense shall be paid out of the contingent fund.

Mr. TICHENOR submitted the following motion for consideration, which was read:

*Resolved*, That two Chaplains of different denominations be appointed to Congress, during the present session, one by each House, who shall interchange weekly.

*Ordered*, That it pass to the second reading.

On motion by Mr. WILSON, it was read a second time by unanimous consent, and considered as in Committee of the Whole, and no amendment having been proposed, the PRESIDENT reported it to the House.

On the question, "Shall this resolution be engrossed and read a third time?" it was determined in the affirmative.

The resolution was then read a third time by unanimous consent, and passed.

A message from the House of Representatives informed the Senate that a quorum of the House of Representatives is assembled, and have elected HENRY CLAY, one of the Representatives for the State of Kentucky, their Speaker, and THOMAS DOUGHERTY their Clerk, and are ready to proceed to business.

The Senate then adjourned.

TUESDAY, December 2.

HARRISON GRAY OTIS, from the State of Massachusetts, arrived on the 1st instant, and attended this day.

A message from the House of Representatives informed the Senate that the House have appointed a committee on their part, to join the committee appointed on the part of the Senate, to wait on the President of the United States, and inform him that a quorum of the two Houses is assembled, and ready to receive any communications he may be pleased to make to them.

Mr. TICHENOR reported, from the joint committee, that they had waited on the President of the United States, and that the President of the United States informed the committee, that he would make a communication to the two Houses, this day, at twelve o'clock.

## PRESIDENT'S ANNUAL MESSAGE.

The following Message was then received from the PRESIDENT OF THE UNITED STATES:

*Fellow-citizens of the Senate  
and of the House of Representatives:*

At no period of our political existence had we so much cause to felicitate ourselves at the prosperous and happy condition of our country. The abundant fruits of the earth have filled it with plenty. An extensive and profitable commerce has greatly augmented our revenue. The public credit has attained an extraordinary elevation. Our preparations for defence, in case of future wars, from which, by the experience of all nations, we ought not to expect to be exempted, are advancing, under a well digested system, with all the despatch which so important a work will admit. Our free Government, founded on the interest and affections of the people, has gained, and is daily gaining, strength. Local jealousies are rapidly yielding to more generous, enlarged, and enlightened views of national policy. For advantages so numerous, and highly important, it is our duty to unite in grateful acknowledgments to that Omnipotent Being, from whom they are derived, and in unceasing prayer, that he will endow us with virtue and strength to maintain and hand them down, in their utmost purity, to our latest posterity.

I have the satisfaction to inform you, that an arrangement which had been commenced by my predecessor, with the British Government, for the reduction of the naval force, by Great Britain and the United States, on the Lakes, has been concluded; by which it is provided, that neither party shall keep in service on Lake Champlain more than one vessel; on Lake Ontario, more than one; and on Lake Erie, and the upper Lakes, more than two; to be armed, each, with one cannon only; and that all the other armed vessels, of both parties, of which an exact list is interchanged, shall be dismantled. It is also agreed, that the force retained shall be restricted, in its duty, to the internal purposes of each party; and that the arrangement shall remain in force until six months shall have expired, after notice given by one of the parties to the other of its desire that it should terminate. By this arrangement, useless expense, on both sides, and, what is of still greater importance, the danger of collision, between armed vessels, in those inland waters, which was great, is prevented. I have the satisfaction also to state, that the Commissioners, under the fourth article of the Treaty of Ghent, to whom it was referred to decide, to

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which party the several islands in the Bay of Passamaquoddy belonged, under the treaty of one thousand seven hundred and eighty-three, have agreed in a report, by which all the islands in the possession of each party before the late war have been decreed to it. The Commissioners, acting under the other articles of the Treaty of Ghent, for the settlement of boundaries, have also been engaged in the discharge of their respective duties, but have not yet completed them. The difference which arose between the two Governments under that treaty, respecting the right of the United States to take and cure fish on the coast of the British provinces, north of our limits, which had been secured by the treaty of one thousand seven hundred and eighty-three, is still in negotiation. The proposition made by this Government, to extend to the colonies of Great Britain the principles of the convention of London, by which the commerce between the ports of the United States and British ports in Europe, had been placed on a footing of equality, has been declined by the British Government. This subject having been thus amicably discussed between the two Governments, and it appearing that the British Government is unwilling to depart from its present regulations, it remains for Congress to decide, whether they will make any other regulations, in consequence thereof, for the protection and improvement of our navigation.

The negotiation with Spain, for spoiliations on our commerce, and the settlement of boundaries, remains, essentially, in the state it held, by the communications that were made to Congress by my predecessor. It has been evidently the policy of the Spanish Government to keep the negotiation suspended, and in this the United States have acquiesced, from an amicable disposition towards Spain, and in the expectation that her Government would, from a sense of justice, finally accede to such an arrangement as would be equal between the parties. A disposition has been lately shown by the Spanish Government to move in the negotiation, which has been met by this Government, and, should the conciliatory and friendly policy which has invariably guided our councils be reciprocated, a just and satisfactory arrangement may be expected. It is proper, however, to remark, that no proposition has yet been made from which such a result can be presumed.

It was anticipated at an early stage, that the contest between Spain and the colonies would become highly interesting to the United States. It was natural that our citizens should sympathize in events which affected their neighbors. It seemed probable, also, that the prosecution of the conflict along our coast, and in contiguous countries, would occasionally interrupt our commerce, and otherwise affect the persons and property of our citizens. These anticipations have been realized. Such injuries have been received from persons acting under the authority of both the parties, and for which redress has, in most instances, been withheld. Through every stage of the conflict, the United States have maintained an impartial neutrality, giving aid to neither of the parties in men, money, ships or munitions of war. They have regarded the contest, not in the light of an ordinary insurrection or rebellion, but as a civil war between parties nearly equal, having, as to neutral Powers, equal rights. Our ports have been open to both, and every article, the fruit of our soil, or of the industry of our citizens, which either was permitted to take, has been equally free to the other. Should the colonies establish their independence, it is

proper now to state, that this Government neither seeks nor would accept from them, any advantage in commerce, or otherwise, which will not be equally open to all other nations. The colonies will, in that event, become independent States, free from any obligation to, or connexion with, us, which it may not then be their interest to form on the basis of a fair reciprocity.

In the Summer of the present year, an expedition was set on foot against East Florida, by persons claiming to act under the authority of some of the colonies, who took possession of Amelia Island, at the mouth of the St. Mary's river, near the boundary of the State of Georgia. As this province lies eastward of the Mississippi, and is bounded by the United States and the ocean on every side, and has been a subject of negotiation with the Government of Spain, as an indemnity for losses by spoliation, or in exchange for territory of equal value, westward of the Mississippi, a fact well known to the world, it excited surprise, that any countenance should be given to this measure by any of the colonies. As it would be difficult to reconcile it with the friendly relations existing between the United States and the colonies, a doubt was entertained, whether it had been authorized by them, or any of them. This doubt has gained strength, by the circumstances which have unfolded themselves in the prosecution of the enterprise, which have marked it as a mere private, unauthorized adventure. Projected and commenced with an incompetent force, reliance seems to have been placed on what might be drawn, in defiance of our laws, from within our limits; and of late, as their resources have failed, it has assumed a more marked character of unfriendliness to us; the island being made a channel for the illicit introduction of slaves from Africa, into the United States, an asylum for fugitive slaves from the neighboring States, and a port for smuggling of every kind.

A similar establishment was made, at an earlier period, by persons of the same description, in the Gulf of Mexico, at a place called Galveston, within the limits of the United States, as we contend, under the cession of Louisiana. The enterprise has been marked, in a more signal manner, by all the objectionable circumstances which characterized the other, and more particularly by the equipment of privateers which have annoyed our commerce, and by smuggling. These establishments, if ever sanctioned by any authority whatever, which is not believed, have abused their trust, and forfeited all claim to consideration. A just regard for the rights and interests of the United States required that they should be suppressed, and orders have been accordingly issued to that effect. The imperious considerations which produced this measure will be explained to the parties whom it may, in any degree, concern.

To obtain correct information on every subject in which the United States are interested; to inspire just sentiments in all persons in authority, on either side, of our friendly disposition, so far as it may comport with an impartial neutrality; and to secure proper respect to our commerce in every port, and from every flag, it has been thought proper to send a ship of war, with three distinguished citizens, along the southern coast, with instruction to touch at such ports as they may find most expedient for these purposes. With the existing authorities, with those in the possession of, and exercising the sovereignty, must the communication be held; from them alone can redress for past

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injuries, committed by persons acting under them, be obtained; by them alone can the commission of the like, in future, be prevented.

Our relations with the other Powers of Europe have experienced no essential change since the last session. In our intercourse with each, due attention continues to be paid to the protection of our commerce, and to every other object in which the United States are interested. A strong hope is entertained, that, by adhering to the maxims of a just, a candid, and friendly policy, we may long preserve amicable relations with all the Powers of Europe, on conditions advantageous and honorable to our country.

With the Barbary States, and the Indian tribes, our pacific relations have been preserved.

In calling your attention to the internal concerns of our country, the view which they exhibit is peculiarly gratifying. The payments which have been made into the Treasury show the very productive state of the public revenue. After satisfying the appropriations made by law for the support of the Civil Government, and of the Military and Naval Establishments, embracing suitable provisions for fortifications and for the gradual increase of the Navy, paying the interest of the public debt, and extinguishing more than eighteen millions of the principal, within the present year, it is estimated that a balance of more than six millions of dollars will remain in the Treasury on the first day of January, applicable to the current service of the ensuing year. The payments into the Treasury during the year one thousand eight hundred and eighteen, on account of imposts and tonnage, resulting principally from duties which have accrued in the present year, may be fairly estimated at twenty millions of dollars; the internal revenues, at two millions five hundred thousand; the public lands, at one million five hundred thousand; bank dividends and incidental receipts, at five hundred thousand; making in the whole twenty-four millions five hundred thousand dollars.

The annual permanent expenditure for the support of the Civil Government, and of the Army and Navy, as now established by law, amounts to eleven millions eight hundred thousand dollars; and for the Sinking Fund, to ten millions; making in the whole twenty-one millions eight hundred thousand dollars; leaving an annual excess of revenue beyond the expenditure of two millions seven hundred thousand dollars, exclusive of the balance estimated to be in the Treasury on the first day of January, one thousand eight hundred and eighteen.

In the present state of the Treasury, the whole of the Louisiana debt may be redeemed in the year one thousand eight hundred and nineteen; after which, if the public debt continues as it now is, above par, there will be annually about five millions of the Sinking Fund unexpended, until the year one thousand eight hundred and twenty-five, when the loan of one thousand eight hundred and twelve, and the stock created by funding Treasury notes, will be redeemable.

It is also estimated that the Mississippi stock will be discharged during the year one thousand eight hundred and nineteen, from the proceeds of the public lands assigned to that object, after which the receipts from those lands will annually add to the public revenue the sum of one million and a half, making the permanent annual revenue amount to twenty-six millions of dollars; and leaving an annual excess of revenue, after the year one thousand eight hundred and

nineteen, beyond the permanent authorized expenditure, of more than four millions of dollars.

By the last returns to the Department of War, the militia force of the several States may be estimated at eight hundred thousand men, infantry, artillery, and cavalry. Great part of this force is armed, and measures are taken to arm the whole. An improvement in the organization and discipline of the militia, is one of the great objects which claims the unremitting attention of Congress.

The regular force amounts nearly to the number required by law, and is stationed along the Atlantic and inland frontiers.

Of the naval force it has been necessary to maintain strong squadrons in the Mediterranean and in the Gulf of Mexico.

From several of the Indian tribes, inhabiting the country bordering on Lake Erie, purchases have been made of lands, on conditions very favorable to the United States, and, as it is presumed, not less so to the tribes themselves. By these purchases, the Indian title, with moderate reservations, has been extinguished, to the whole of the land within the limits of the State of Ohio, and to a part of that in the Michigan Territory, and of the State of Indiana. From the Cherokee tribe a tract has been purchased in the State of Georgia, and an arrangement made, by which, in exchange for lands beyond the Mississippi, a great part, if not the whole, of the land belonging to that tribe, eastward of that river, in the States of North Carolina, Georgia, and Tennessee, and in the Alabama Territory, will soon be acquired. By these acquisitions, and others that may reasonably be expected soon to follow, we shall be enabled to extend our settlements from the inhabited parts of the State of Ohio, along Lake Erie into the Michigan Territory, and to connect our settlements, by degrees, through the State of Indiana and the Illinois Territory, to that of Missouri. A similar and equally advantageous effect will soon be produced to the South, through the whole extent of the States and Territory which border on the waters emptying into the Mississippi and the Mobile. In this progress, which the rights of nature demand, and nothing can prevent, marking a growth rapid and gigantic, it is our duty to make new efforts for the preservation, improvement, and civilization of the native inhabitants. The hunter state can exist only in the vast uncultivated desert. It yields to the more dense and compact form and greater force of civilized population, and of right it ought to yield, for the earth was given to mankind to support the greatest number of which it is capable, and no tribe or people have a right to withhold from the wants of others more than is necessary for their own support and comfort. It is gratifying to know that the reservations of land made by the treaties with the tribes on Lake Erie, were made with a view to individual ownership among them, and to the cultivation of the soil by all, and that an annual stipend has been pledged to supply their other wants. It will merit the consideration of Congress, whether other provisions, not stipulated by treaty, ought to be made for these tribes, and for the advancement of the liberal and humane policy of the United States towards all the tribes within our limits, and more particularly for their improvement in the arts of civilized life.

Among the advantages incident to these purchases, and to those which have preceded, the security which may thereby be afforded to our inland frontiers is pe-

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cularly important. With a strong barrier, consisting of our own people thus planted on the Lakes, the Mississippi, and the Mobile, with the protection to be derived from the regular force, Indian hostilities, if they do not altogether cease, will henceforth lose their terror. Fortifications in those quarters, to any extent, will not be necessary, and the expense attending them may be saved. A people accustomed to the use of fire-arms only, as the Indian tribes are, will shun even moderate works, which are defended by cannon. Great fortifications will, therefore, be requisite only in future along the coast, and at some points in the interior, connected with it. On these will the safety of our towns and the commerce of our great rivers, from the Bay of Fundy to the Mississippi, depend. On these, therefore, should the utmost attention, skill, and labor be bestowed.

A considerable and rapid augmentation in the value of all the public lands, proceeding from these and other obvious causes, may henceforward be expected. The difficulties attending early emigrations will be dissipated even in the most remote parts. Several new States have been admitted into our Union, to the West and South, and territorial governments, happily organized, established over every other portion, in which there is vacant land for sale. In terminating Indian hostilities, as must soon be done, in a formidable shape at least, the emigration, which has heretofore been great, will probably increase, and the demand for land, and the augmentation in its value, be in like proportion. The great increase of our population throughout the Union will alone produce an important effect, and in no quarter will it be so sensibly felt as in those in contemplation. The public lands are a public stock, which ought to be disposed of to the best advantage for the nation. The nation should, therefore, derive the profit proceeding from the continual rise in their value. Every encouragement should be given to the emigrants, consistent with a fair competition between them, but that competition should operate in the first sale to the advantage of the nation rather than of individuals. Great capitalists will derive all the benefit incident to their superior wealth, under any mode of sale which may be adopted. But if, looking forward to the rise in the value of the public lands, they should have the opportunity of amassing, at a low price, vast bodies in their hands, the profit will accrue to them, and not to the public. They would also have the power, in that degree, to control the emigration and settlement in such a manner as their opinion of their respective interests might dictate. I submit this subject to the consideration of Congress, that such further provision may be made in the sale of the public lands, with a view to the public interest, should any be deemed expedient, as in their judgment may be best adapted to the object.

When we consider the vast extent of territory within the United States; the great amount and value of its productions; the connexion of its parts, and other circumstances, on which their prosperity and happiness depend, we cannot fail to entertain a high sense of the advantage to be derived from the facility which may be afforded in the intercourse between them, by means of good roads and canals. Never did a country of such vast extent offer equal inducements to improvements of this kind, nor ever were consequences of such magnitude involved in them. As this subject was acted on by Congress at the last session, and there may be a disposition to revive it at the present, I have

brought it into view, for the purpose of communicating my sentiments on a very important circumstance connected with it, with that freedom and candor which a regard for the public interest, and a proper respect for Congress, require. A difference of opinion has existed from the first formation of our Constitution, to the present time, among our most enlightened and virtuous citizens, respecting the right of Congress to establish such a system of improvement. Taking into view the trust with which I am now honored, it would be improper, after what has passed, that this discussion should be revived, with an uncertainty of my opinion respecting the right. Disregarding early impressions, I have bestowed on the subject all the deliberation which its great importance, and a just sense of my duty required, and the result is, a settled conviction in my mind, that Congress do not possess the right. It is not contained in any of the specified powers granted to Congress; nor can I consider it incidental to, or a necessary mean, viewed on the most liberal scale, for carrying into effect any of the powers which are specifically granted. In communicating this result, I cannot resist the obligation which I feel, to suggest to Congress the propriety of recommending to the States the adoption of an amendment to the Constitution, which shall give to Congress the right in question. In cases of doubtful construction, especially of such vital interest, it comports with the nature and origin of our institutions, and will contribute much to preserve them, to apply to our constituents for an explicit grant of the power. We may confidently rely, that if it appears to their satisfaction, that the power is necessary, it will always be granted. In this case I am happy to observe, that experience has afforded the most ample proof of its utility, and that the benign spirit of conciliation and harmony, which now manifests itself throughout our Union, promises to such a recommendation the most prompt and favorable result. I think proper to suggest, also, in case this measure is adopted, that it be recommended to the States to include, in the amendment sought, a right in Congress to institute, likewise, seminaries of learning for the all-important purpose of diffusing knowledge among our fellow citizens throughout the United States.

Our manufactories will require the continued attention of Congress. The capital employed in them is considerable, and the knowledge acquired in the machinery and fabric of all the most useful manufactures, is of great value. Their preservation, which depends on due encouragement, is connected with the high interests of the nation.

Although the progress of the public buildings has been as favorable as circumstances have permitted, it is to be regretted that the Capitol is not yet in a state to receive you. There is good cause to presume, that the two wings, the only parts as yet commenced, will be prepared for that purpose at the next session. The time seems now to have arrived, when this subject may be deemed worthy the attention of Congress, on a scale adequate to national purposes. The completion of the middle building will be necessary to the convenient accommodation of Congress, of the committees, and various offices belonging to it. It is evident that the other public buildings are altogether insufficient for the accommodation of the several Executive Departments, some of whom are much crowded, and even subjected to the necessity of obtaining it in private buildings, at some distance from the head of the department, and with inconvenience to the man-



agement of the public business. Most nations have taken an interest and a pride in the improvement and ornament of their Metropolis, and none were more conspicuous in that respect than the ancient Republics. The policy which dictated the establishment of a permanent residence for the National Government, and the spirit in which it was commenced and has been prosecuted, show that such improvement was thought worthy the attention of this nation. Its central position, between the Northern and Southern extremes of our Union, and its approach to the West, at the head of a great navigable river, which interlocks with the Western waters, prove the wisdom of the councils which established it. Nothing appears to be more reasonable and proper, than that convenient accommodation should be provided, on a well-digested plan, for the Heads of the several Departments, and of the Attorney General; and it is believed that the public ground in the city applied to those objects will be found amply sufficient. I submit this subject to the consideration of Congress, that such further provision may be made in it, as to them may seem proper.

In contemplating the happy situation of the United States, our attention is drawn, with peculiar interest, to the surviving officers and soldiers of our Revolutionary Army, who so eminently contributed, by their services, to lay its foundation. Most of those very meritorious citizens have paid the debt of nature and gone to repose. It is believed, that among the survivors, there are some not provided for by existing laws, who are reduced to indigence, and even to real distress. These men have a claim on the gratitude of their country, and it will do honor to their country, to provide for them. The lapse of a few years more, and the opportunity will be forever lost; indeed, so long already has been the interval, that the number to be benefitted by any provision which may be made, will not be great.

It appearing in a satisfactory manner that the revenue arising from imposts and tonnage, and from the sale of the public lands, will be fully adequate to the support of the Civil Government, of the present Military and Naval Establishment, including the annual augmentation of the latter to the extent provided for, to the payment of the interest of the public debt, and to the extinguishment of it at the times authorized, without the aid of the internal taxes, I consider it my duty to recommend to Congress their repeal. To impose taxes, when the public exigencies require them, is an obligation of the most sacred character, especially with a free people. The faithful fulfilment of it is among the highest proofs of their virtue, and capacity for self-government. To dispense with taxes, when it may be done with perfect safety, is equally the duty of their representatives. In this instance we have the satisfaction to know that they were imposed when the demand was imperious, and have been sustained with exemplary fidelity. I have to add, that, however gratifying it may be to me, regarding the prosperous and happy condition of our country, to recommend the repeal of these taxes at this time, I shall nevertheless be attentive to events, and, should any future emergency occur, be not less prompt to suggest such measures and burdens as may then be requisite and proper.

JAMES MONROE.

The Message was read, and two thousand copies thereof ordered to be printed for the use of the Senate.

The Senate then adjourned.

WEDNESDAY, December 3.

ROBERT H. GOLDSBOROUGH, from the State of Maryland, arrived on the 2d instant, and attended this day.

Mr. BAREOUR, from the committee to whom the subject was referred, reported a resolution for the admission of the State of Mississippi into the Union; and the resolution was read twice by unanimous consent, and considered as in Committee of the Whole; and no amendment having been proposed thereto, the PRESIDENT reported it to the House.

On the question, "Shall this resolution be engrossed and read a third time?" it was determined in the affirmative.

The said resolution having been reported by the committee correctly engrossed, it was read a third time by unanimous consent.

*Resolved*, That this resolution pass, and that the title thereof be, a "Resolution for the admission of the State of Mississippi into the Union."

The PRESIDENT communicated a letter from John Gardiner, Chief Clerk in the General Land Office, presenting to the Senate two copies of a map of the bounty lands in the Illinois Territory, engraved for the use of the soldiers of the late army; and the letter was read.

THURSDAY, December 4.

GEORGE W. CAMPBELL, from the State of Tennessee, arrived the 3d, and attended this day.

The PRESIDENT communicated a letter from David Holmes, Governor of the State of Mississippi, with a copy of the constitution, as adopted for the government of that State; which were read.

Mr. DAGGETT gave notice, that, to-morrow, he should ask leave to bring in a resolution authorizing the distribution of certain public documents.

Mr. TAIT submitted the following motion for consideration:

*Resolved*, That the Senate will on — next proceed to the appointment of the Standing Committees of this House.

FRIDAY, December 5.

OUTERBRIDGE HORSEY, from the State of Delaware, arrived the 4th, and attended this day.

Agreeably to notice, Mr. DAGGETT asked and obtained leave to bring in a resolution authorizing the distribution of certain public documents; and the resolution was read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 4th instant, for the appointment of the Standing Committees of this House, and, the blank having been filled with "Tuesday," agreed thereto.

A message from the House of Representatives informed the Senate that they concur in the resolution of the Senate, for the appointment of a joint committee on the arrangements for the Library, and have appointed a committee on their

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part. They also concur in the resolution of the Senate, for the appointment of Chaplains.

On motion, by Mr. WILSON,

*Resolved*, That the Senate will, at 12 o'clock, on Monday next, proceed to the election of a Chaplain on their part.

The Senate adjourned to 11 o'clock on Monday morning.

#### MONDAY, December 8.

MONTFORT STOKES, from the State of North Carolina, arrived on the 5th instant, and attended this day.

The PRESIDENT communicated the credentials of JOHN W. EPES, appointed a Senator by the Legislature of the State of Virginia, for the term of six years, commencing on the 4th day of March last; which were read, and laid on file.

The PRESIDENT also communicated a report of the Secretary of the Treasury, comprehending the statements relating to the internal duties and direct tax, required by the 33d section of the act of Congress, of the 22d July, 1813; also, a report prepared in obedience to the act, entitled "An act to establish the Treasury Department;" which were read.

The resolution authorizing the distribution of certain public documents, was read the second time, and referred to a select committee; and Mr. DAGGETT, Mr. ROBERTS, and Mr. BARBOUR, were appointed the committee.

Mr. SANFORD submitted the following motion for consideration:

*Resolved*, That the Committee of Finance inquire what alterations or amendments may be requisite in the present system of collecting the duties charged on the value of merchandise imported into the United States; and what farther legal provisions are necessary, in order to secure the equal and certain collection of those duties.

Mr. BARBOUR gave notice, that, to-morrow, he should ask leave to bring in a resolution, proposing to the several States an amendment to the Constitution of the United States, on the subject of internal improvements.

#### TUESDAY, December 9.

The Senate resumed the consideration of the motion of the 8th instant, for instructing the Committee of Finance to make inquiry in relation to the collection of ad valorem duties on importations; and the further consideration thereof was postponed until Tuesday next.

#### INTERNAL IMPROVEMENT.

Mr. BARBOUR, of Virginia, in pursuance of notice yesterday given, introduced the following resolution for an amendment to the Constitution of the United States, in relation to internal improvements:

*Resolved*, &c., That the following amendment to the Constitution of the United States be proposed to the Legislatures of the several States, which, when ratified by the Legislatures of three-fourths of the States, shall be valid to all intents and purposes, as a part of the

said Constitution: "Congress shall have power to pass laws appropriating money for constructing roads and canals, and improving the navigation of water-courses: *Provided, however*, That no road or canal, shall be conducted in any State, nor the navigation of its waters improved, without the consent of such State: *And provided also*, That whenever Congress shall appropriate money to these objects, the amount thereof shall be distributed among the several States, in the ratio of representation which each State shall have in the most numerous branch of the National Legislature. But the portion of any State, with its own consent, may be applied to the purpose aforesaid, in any other State."

In submitting to the Senate this proposition to amend the Constitution, in respect to the power to establish roads and canals—

Mr. BARBOUR said he felt it due to himself to say, that his opinion had not changed since the last session. He thought now, as he did then, that Congress had the authority already which it was intended to give them by this amendment. He had, in a discussion of some length, which took place during the last session, assigned his reasons for that opinion; their repetition at this time would be impertinent. The fate of the bill which had for its object the appropriation of the bonus of the bank to internal improvements is known to the Senate. The present Chief Magistrate had, he thought, very frankly and properly, disclosed his opinion, and decided it unconstitutional. The impracticability of passing it, with this impediment, through Congress, he presumed, must be palpable. Indeed, he did not know that it was desirable that it should be. It is better, perhaps, in all cases of doubt, to recur to the people—the original and only legitimate fountain of power. For if it were clear that Congress had the power, and it were believed the exercise thereof would be in opposition to the public sentiment, he presumed Congress would forbear to resort to it. The Government being founded on the sovereignty of the public will, it must, it ought to govern. If, on the contrary, the people of the United States wished the measure of internal improvement to be carried into effect, there is no cause to apprehend that the State Legislatures, bringing with them into their councils that will, and the sentiments of their constituents, will withhold the grant of power intended by the proposed amendment. Under the guaranty thus acquired, Congress may proceed with a certainty that they not only have the power, but that it is the wish of their constituents it should be exercised. But if the people should think we have not the power, however they might approve the expediency of the measure, in itself, yet being, in their opinion, out of the limits of our Constitutional power, they, as watchful guardians of the Constitution, could not fail to condemn us. What is the public opinion on this point is difficult to decide, except that we are warranted in saying, if we take the votes of the last Congress as a fair representation, they are nearly equally divided. What course then is better or more conformable to the true spirit of free principles, than to go back to

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those who made the Constitution, and who alone have power to alter or amend it, for their interpretation? On the one hand there is safety, on the other there may be error. Even in ordinary acts of legislation, when contrary constructions are given to a law, recurrence is had to the framers for an explanatory law. If it be proper in the last case, it applies more strongly in the former. Some gentlemen say that if they vote for this amendment they compromise themselves as to consistency, and weaken the Constitution. Mr. B. did not perceive the correctness of that view of the subject. On the contrary, the vote in favor of the amendment by those holding the affirmative of the right of Congress already, will manifest a liberality by uniting with those who are of a different sentiment; and none will make a surrender of their opinions. For, if the amendment should be carried, whether the opinion as to the present power of Congress be right or wrong will be insignificant. If it should fail, each will recur to his opinion, as now entertained, and act upon it without any restraint arising from his liberality in uniting with those who differ from him on the constitutionality of this question. The principles of the amendment are derived from the bill of the last session. The very full and elaborate discussion which attended the passage of it is an evidence that its form, on the whole, was the most acceptable. For after having given to Congress the power of appropriating money to the objects of internal improvement, it restrains Congress from exercising this authority without the consent of the State in which the improvement is to be made. This prevents an unpleasant collision. Again, the money is to be equally divided among the States according to their federal numbers. Although it might be more advantageous to concentrate the efforts of the United States on some great object, yet there is a fear and jealousy among the small States, that the large would monopolize the whole. Mr. B. recollected the opinion of a gentleman of the Senate last session, now no longer here, of whom he would say, that, although they differed essentially on many political questions of great interest, yet, upon many points, both his judgment and his views were sound, and entitled to very great respect. It was the opinion of this gentleman that this fund, without the security introduced into the bill, and now a part of the proposed amendment, might become an instrument of intrigue and corruption; and a canal or a road might be weighed against a Presidential candidate, and the scale would be inclined as avarice or ambition preponderated. To avoid a consequence so much to be deprecated, he thought the condition of a fixed apportionment among the States a sound one. In any event he was satisfied that without it all attempts at amendment would prove abortive. The small States, it is to be apprehended, will surrender themselves to these fears, if this guaranty is not given; with it there could be no cause of apprehension, and he could perceive no cause to doubt its success. The right of the

State, with its consent, to appropriate it to objects without its limits is too obvious to need a comment. He would just observe, however, that the cutting a canal between the Delaware and Chesapeake Bay would furnish an illustration; as Pennsylvania, Maryland, and Delaware might unite in the undertaking. Mr. B. wished further to remark, that this proposition was not made with a view unnecessarily to enlarge the powers of the General Government. He was anxious to see the spirit in which it originated kept perpetually in view; namely, that whatever could be as well done by the States as the General Government, the power of doing it should be retained exclusively to the States; while the General Government should exercise its authority on objects exclusively national; and there should be a coincidence of authority only where its exercise should be dictated by necessity or great advantage. The establishing military roads from one end to the other of this extensive empire, or an internal navigation on the same scale, required the resources and the superintending power of the General Government. While all minor objects of internal improvement, particularly affecting the State, may be therefore well and correctly given exclusively to the States, that which is national should belong to the General Government. It was with these sentiments, Mr. B. said, he presented the proposed amendment to the consideration of the Senate.

The resolution passed to a second reading.

The Senate proceeded to the appointment of a Chaplain on their part, and on the ballots having been counted, it appeared that the Reverend WILLIAM HAWLEY had a majority, and was elected.

On motion, by Mr. TAIT, the appointment of the Standing Committees of the Senate, was postponed until Thursday next.

WEDNESDAY, December 10.

ELI P. ASHMUN, from the State of Massachusetts, and GEORGE M. TROUP, from the State of Georgia, severally arrived on the 9th, and attended this day.

The resolution for an amendment to the Constitution of the United States, in relation to internal improvements, was read the second time, and, on motion by Mr. BARBOUR, referred to a select committee, to consist of five members, to consider and report thereon. Mr. BARBOUR, Mr. KING, Mr. LACOCK, Mr. MACON, and Mr. EPPEL, were appointed the committee.

A message from the House of Representatives informed the Senate that they have appointed the Reverend BURGESS ALLISON, Chaplain on their part. They have also passed a resolution, directing a distribution of certain laws, among the members of the fifteenth Congress, in which they request the concurrence of the Senate.

The resolution, last mentioned, was read, and passed to the second reading.

Mr. MORRIL submitted the following motion for consideration:



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*Resolved*, That the President of the United States be requested to communicate to the Senate such information as he may possess, relating to the progress made in surveying the several tracts of military bounty lands appropriated by Congress, in the State of Louisiana and the Missouri Territory, for the late Army of the United States, and the time at which such survey will probably be completed.

Mr. SANFORD submitted the following motion for consideration:

*Resolved*, That the Secretary of the Treasury lay before the Senate information of the progress which has been made in the settlement of public accounts, under the act "to provide for the prompt settlement of public accounts;" and that he also state what further legal provisions may be, in his opinion, necessary to insure the speedy settlement of public accounts.

THURSDAY, December 11.

JEREMIAH MORROW, from the State of Ohio, arrived on the 10th instant, and attended this day.

The PRESIDENT communicated a report of the Secretary of the Treasury, comprehending an account of the fund appropriated for the safe-keeping and accommodation of prisoners of war; which was read.

WALTER LEAKE and THOMAS H. WILLIAMS, respectively, appointed Senators by the Legislature of the State of Mississippi, produced their credentials, were qualified, and took their seats in the Senate.

The resolution directing a distribution of certain laws among the members of the fifteenth Congress was read the second time, and referred to the committee to whom was referred, on the 8th instant, the resolution authorizing the distribution of certain public documents, to consider and report thereon.

The Senate resumed the consideration of the motion of the 10th instant, for information relating to the progress made in surveying the military bounty lands; which, having been amended on motion by Mr. MORROW, was agreed to as follows:

*Resolved*, That the President of the United States be requested to communicate to the Senate such information as he may possess, relating to the progress made in surveying the several tracts of *military bounty lands* appropriated by Congress for the late Army of the United States, and the time at which such survey will probably be completed.

The Senate resumed the consideration of the motion of the 10th instant, for information relating to the prompt settlement of public accounts, and agreed thereto.

## STANDING COMMITTEES.

The Senate proceeded to the appointment of the following Standing Committees; and, on motion by Mr. TAIT, it was ordered that they consist of five members each:

*Committee on Foreign Relations*.—Mr. BARBOUR, Mr. MACON, Mr. TROUP, Mr. KING, and Mr. LACOCK.

*Committee on Finance*.—Mr. CAMPBELL, Mr. EPPES, Mr. KING, Mr. TALBOT, and Mr. MACON.

*Committee on Commerce and Manufactures*.—Mr. SANFORD, Mr. HORSEY, Mr. MORRIL, Mr. BURRILL, and Mr. DICKERSON.

*Committee on Military Affairs*.—Mr. TROUP, Mr. WILLIAMS of Tennessee, Mr. TICHENOR, Mr. LACOCK, and Mr. TAYLOR.

*Committee on the Militia*.—Mr. STORER, Mr. NOBLE, Mr. ROBERTS, Mr. MACON, and Mr. RUGGLES.

*Committee on Naval Affairs*.—Mr. TAIT, Mr. SANFORD, Mr. CRITTENDEN, Mr. DAGGETT, and Mr. WILLIAMS of Mississippi.

*Committee on Public Lands*.—Mr. MORROW, Mr. FISK, Mr. TAYLOR, Mr. WILLIAMS of Mississippi, and Mr. HUNTER.

*Committee of Claims*.—Mr. ROBERTS, Mr. MORRIL, Mr. RUGGLES, Mr. GOLDSBOROUGH, and Mr. WILSON.

*Committee on the Judiciary*.—Mr. CRITTENDEN, Mr. BURRILL, Mr. OTIS, Mr. SMITH, and Mr. LEAKE.

*Committee on the Post Office and Post Roads*.—Mr. WILSON, Mr. ASHMUN, Mr. FISK, Mr. RUGGLES, and Mr. STOKES.

*Committee on Pensions*.—Mr. NOBLE, Mr. STORER, Mr. LACOCK, Mr. VANDYKE, and Mr. TALBOT.

*Committee on the District of Columbia*.—Mr. GOLDSBOROUGH, Mr. DAGGETT, Mr. EPPES, Mr. BARBOUR, and Mr. STOKES.

FRIDAY, December 12.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to abolish the internal duties," in which they request the concurrence of the Senate.

The bill last mentioned was read by unanimous consent, and referred to the Committee on Finance.

The PRESIDENT communicated two memorials of the commissioned officers (then of the Mediterranean squadron) under the rank of commanders, remonstrating against the treatment received by Captain Heath, of the Marine Corps, from Commodore Perry, and the proceedings thereon; also against the decision in another case, which occurred at Naples between Captain John Orde Creighton and Midshipman Marsden of the Washington; and praying some legislative provision for the more effectual protection of the rights of subalterns; and the memorials were read.

The PRESIDENT also communicated a memorial from the officers of the Marine Corps, (then in the Mediterranean,) on the same subject; which was read, and referred to the Committee on Naval Affairs.

On motion by Mr. CAMPBELL, the further consideration thereof was postponed until Monday next.

Mr. MACON presented the petition of Joel Rivers, praying permission to purchase four acres of land, near Fort Claiborne, on the Alabama river, to secure the right of a ferry; which was read,

and referred to the Committee on the Public Lands.

Mr. BURRILL presented the petition of D. Lyman and others, a committee acting for and in behalf of the cotton and woollen manufacturers of Providence and its vicinity, praying that the present duties on imported cotton and woollen goods may be rendered permanent, and that provisions may be made more effectually to prevent evasions thereof; and that such further measures for the security and promotion of American manufactures may be adopted, as Congress in their wisdom may deem proper and expedient; and the petition was read, and referred to the Committee on Commerce and Manufactures.

On motion by Mr. CAMPBELL, the standing committees of the Senate had leave to report, by bill or otherwise, on all subjects referred to them.

Mr. DAGGETT submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of passing a law on the subject of bankruptcies, and, if they judge it expedient, to report a bill for that purpose. Also, that the aforesaid committee inquire into the expediency of further provision by law for the punishment of offences committed in places within the exclusive jurisdiction of the United States. Also, into the necessity of further defining piracy and other offences committed on the high seas, and into any defects existing in the laws of the United States for the punishment of crimes and offences.

Mr. DICKERSON presented the memorial of John Dow, and others, manufacturers of iron, praying that a further duty may be imposed on the importation of certain descriptions of iron, for reasons stated in the memorial; which was read, and referred to the Committee on Commerce and Manufactures.

Mr. BURRILL presented the memorial of Charles D'Wolfe, and others, merchants of Bristol, in the State of Rhode Island, praying that provision may be made for granting the benefit of the drawback of duties upon the exportation of certain goods therein stated; and the memorial was read, and referred to the Committee on Finance.

Mr. RUGGLES presented the petition of Hasfield White, praying to be allowed the payment of a sum placed in his hands for public purposes, but lost in action during the Revolutionary war, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. LACOCK submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of dividing the State of Pennsylvania into two judicial districts, and establishing a district and circuit court of the United States, at the city of Pittsburg, in the county of Allegheny.

On motion by Mr. BARBOUR, the Senate proceeded to ascertain the classes in which the Senators of the State of Mississippi shall be inserted, in conformity to the resolution of the 14th of May, 1789, and as the Constitution requires; and,

*Ordered*, That two lots, No. 3, and a blank, be,

by the Secretary, rolled up and put into the ballot box; and it is understood that the Senator who should draw the lot No. 3, should be inserted in the class of Senators whose terms of service respectively expire in six years, from and after the third day of March, one thousand eight hundred and seventeen, in order to equalize the classes; accordingly Mr. WILLIAMS drew lot No. 3, and Mr. LEAKE drew the blank.

It was then agreed that two lots, No. 1, and No. 2, should be, by the Secretary, rolled up, and put into the ballot box, and one of these be drawn by Mr. LEAKE, the Senator from the State of Mississippi, not classed; and it was understood that if he should draw lot No. 1, he should be inserted in the class of Senators whose terms of service will respectively expire in two years, from and after the third day of March, one thousand eight hundred and seventeen; but if he should draw lot No. 2, it was understood that he should be inserted in the class of Senators whose terms of service respectively expire in four years, from and after the third day of March, one thousand eight hundred and seventeen; when Mr. LEAKE drew No. 2, and is classed accordingly.

Mr. CAMPBELL submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of providing by law for authorizing those who hold titles, derived from the State of North Carolina, to lands in that part of the State of Tennessee to which the Indian claim has not been extinguished, to have the boundaries or other land marks of their claims ascertained, and remarked or otherwise identified, in order to perpetuate the evidence to support the same.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act supplementary to the act establishing the Mint, and the act concerning the Mint," in which they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

Mr. CAMPBELL gave notice that, at the next sitting of the Senate, he should ask leave to bring in a bill to authorize the State of Tennessee to issue grants, and perfect titles, on certain entries and locations of lands therein described.

On motion by Mr. CAMPBELL, the annual report of the Secretary of the Treasury on the state of the finances, communicated the 8th instant, was referred to the Committee on Finance.

#### REFERENCE OF PRESIDENT'S MESSAGE.

On motion by Mr. BARBOUR,

*Resolved*, That so much of the President's Message as relates to foreign affairs, be referred to the Committee on Foreign Relations.

On motion by Mr. SANFORD,

*Resolved*, That so much of the Message of the President of the United States, as relates to commerce and manufactures, be referred to the Committee of Commerce and Manufactures.

On motion by Mr. CAMPBELL,

*Resolved*, That so much of the Message of the

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President of the United States, as relates to the finances, be referred to the Committee on Finance.

Mr. LACOCK submitted the following motion for consideration:

*Resolved*, That so much of the President's Message as relates to roads and inland navigation, and seminaries of learning, be referred to a select committee.

Mr. MORROW submitted the following motion for consideration:

*Resolved*, That so much of the Message of the President of the United States as relates to the public lands, be referred to the Committee on the Public Lands.

Mr. ROBERTS submitted the following motion for consideration:

*Resolved*, That so much of the Message of the President of the United States as relates to the surviving officers and soldiers of our Revolutionary Army, be referred to the Committee on Pensions.

### PUBLIC DEPOSITES.

The PRESIDENT communicated a report from the Secretary of the Treasury, explaining the reasons for not transferring the balances from the State banks to the Bank of the United States; which was read. The report is as follows:

TREASURY DEPARTMENT, Dec. 10, 1817.

SIR: By the sixteenth section of the charter of the Bank of the United States, the deposits of the public money are required to be made in the Bank and its offices, in the places where they may be established, unless the Secretary of the Treasury shall, at any time, otherwise order and direct; in which case the reasons of such order and direction shall be laid before Congress, if in session, and, if not in session, immediately after the commencement of the next session.

The Bank itself, and its offices established at Boston, New York, Baltimore, and this city, commenced their operations at different periods, between the 1st day of January, 1817, and the 4th day of March ensuing.

If the provisions of the section already stated did not impose the obligation to transfer to the Bank of the United States, and to its offices, the public deposits which had been previously made in the State and local banks, no deposit during this interval was made which required the reasons upon which it was directed to be communicated to Congress.

Without inquiring, in this place, whether under the charter the Bank of the United States had a right to such a transfer, I feel it my duty to state, that previous to the 1st day of January, 1817, a proposition had been submitted by this Department to the State and other local banks, for the purpose of inducing them to resume specie payments on the 20th day of February following. As the public money deposited in them was intimately connected with the proposition, it was deemed inexpedient to transfer those balances to the Bank of the United States until the result of the proposition was known.

Nearly contemporaneous with this event, an arrangement was made between the Bank of the United States and the State banks in the cities of New York, Philadelphia, Baltimore, and Richmond, by which the deposits were to be transferred from the State banks embraced by the arrangement to the Bank of the United States and to its offices on the 20th day of February in that year. This arrangement was sanctioned by

the Treasury Department, and was substantially executed by the parties.

As the conditions imposed by this arrangement upon the Bank of the United States were not extended to any other State or local banks than those which were parties to it, in order to induce the banks in this District to resume specie payments simultaneously with the banks already enumerated, it became necessary for the Treasury Department to give them assurances of support during the first months succeeding such resumption. In consequence of this assurance, a considerable portion of the deposits in the banks of Washington and Georgetown was permitted to remain until the 1st day of July last. On the 15th day of March of the same year, a deposit of \$75,000 was made in the Farmers and Mechanics' Bank of Georgetown, which had not previously been one of the depositories of the public money; which sum was transferred to the Bank of the United States at the time that the deposits which had previously been made in the banks of Washington and Georgetown were transferred.

In the States south of this place, the deposits were transferred from the State banks to the offices of the Bank of the United States at the several periods of their commencing their operations.

Shortly after the office at Boston went into operation, a considerable portion of the public money deposited in the State banks was transferred, and paid in specie by that bank. Upon the urgent representations of the State banks, the remainder was assigned for the discharge of the Treasury notes which had been made payable at that place. Such portion of the sum set apart for that object as remained unexpended on the 1st day of July was directed to be paid to the office established at Boston.

Previously to the close of the year 1816, a considerable sum had been deposited in the Bank of Pennsylvania, to the credit of the Commissioner of Loans of the State of Pennsylvania, for the purpose of discharging the Treasury notes which had been made payable at Philadelphia. When the duties of Commissioner of Loans were transferred to the Bank of the United States, on the 1st day of July last, a considerable balance of that amount remained unexpended.

It was, however, represented by the Bank of Pennsylvania that Treasury notes were daily presented to it for payment, and that a transfer of the funds assigned to that object would be inconvenient to the holders; it was thereupon determined to continue to employ that bank as the agent of the Treasury for discharging the outstanding Treasury notes demandable at Philadelphia until the 1st day of October last, when the unexpended balance was directed to be transferred to the Bank of the United States.

By the regulations of the Bank of the United States, its officers were not permitted to receive the bills of any State or local banks except those established in the places where they were respectively tendered in payment. Under this regulation, the bills presented for deposit by the collector of the District of Columbia, and by several of those of the internal revenue of the States of Virginia and Maryland, to the office at this place, were refused.

The frequent repayments by officers of the late army on the final settlement of their accounts at the Treasury presented a difficulty of the same nature. In order to avoid the inconvenience of special deposits in this city, an arrangement was made with the Bank of

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the Metropolis, which has received all sums refused by the office in obedience to those regulations, and has credited the Treasurer of the United States with the amount in specie. The sums so paid remain still principally with the bank. Payments to some extent were also, on the same principle, made into the Bank of Pennsylvania, for some months after the Bank of the United States was in operation; but the sums so paid have been since transferred to the Bank of the United States.

No other cases have occurred during the recess of Congress which are necessary to be presented in this communication.

In declining to transfer the balances which remained in the banks of this District at the time that the office in this city commenced business, and in the cases stated to have occurred in Philadelphia and in Boston, I was influenced by a consideration of the pressure felt by the State and local banks during several months subsequent to the resumption of specie payments, and of the services rendered to the Government by those banks during the period that they were used as places of public deposit by the Treasury. An immediate transfer of the public money deposited in them would probably have produced a pressure upon the debtors of those banks, which might have inflicted upon them evils greatly beyond the benefit which would have resulted from that measure to the Bank of the United States.

In making transfers from the State banks, the special deposits, of which they were in some instances principally composed, presented considerable embarrassment. The Bank of the United States tendered its services for the purpose of exchanging for specie, or bills of the banks in the commercial cities, those deposits which were principally confined to the interior of the Middle and Western States. This offer was accepted; and although great exertions were made by the Bank to effect that object, much remains to be done. Indeed, the amount of special deposits is nearly as large as when the agency of the Bank was accepted. This has arisen from the immense number of local banks scattered over the interior of the States of Pennsylvania and Ohio, most of which ostensibly pay their bills in specie. The paper, however, of these banks is not received in most cases by each other as specie; and the experience which the Bank of the United States, in the execution of its agency, has acquired of the character and standing of many of them, has induced it generally to refuse the bills of those banks.

In order to put an end to an evil which seems rather to increase than to diminish, general instructions have been given to the collectors of the internal revenue to receive the bills of no bank which will not be credited as specie in the Bank of the United States, its offices, and State banks employed as places of deposit, where they are respectively required to make their deposits. As soon as the offices established at Louisville, Chillicothe and Pittsburg have gone into operation, and shall have thrown into circulation a reasonable amount of their bills, they will be made the sole depositories of the public money arising from the sale of lands in the States of Ohio and Indiana, and instructions similar to those already given to the collectors will be given to the receivers of public money in those States.

It is only after this arrangement shall be effected that the Bank of the United States will enjoy, in their just extent, the advantages intended to be secured to

it by the charter. Under the limited enjoyment of those advantages, which general circumstances seemed to impose, the conduct of the Bank is entitled to high commendation. The directors have, in no instance, urged their claim to an earlier transfer of the public money which remained in the possession of the State and local banks. There is much reason, also, to believe, that in its intercourse with the State banks, and in the execution of the agency confided to it by this Department, a spirit of justice and liberality has been constantly manifested.

I have the honor to be, your most obedient servant,  
WM. H. CRAWFORD.

HON. PRESIDENT OF THE SENATE.

MONDAY, December 15.

Mr. WILLIAMS, of Tennessee, presented the petition of Alfred M. Carter, of Tennessee, on behalf of himself and the other heirs of his deceased father, Landon Carter, praying payment for an unliquidated loan office certificate, for five hundred dollars, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. BURRILL presented the petition of Joseph Aborn, surveyor of the port of Patuxet, within the district of Providence, in the State of Rhode Island, praying an increase of compensation, for reasons stated in the petition; which was read, and referred to the Committee of Claims.

Mr. BURRILL also presented the petition of Weaver Bennet, of Cranston, Rhode Island, praying compensation for services during the Revolutionary war, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. WILLIAMS, of Mississippi, submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire what provisions are necessary to give effect to the laws of the United States, within the State of Mississippi.

On motion by Mr. LACOCK,

*Resolved*, That so much of the Message of the President of the United States as relates to the public buildings, be referred to the Committee for the District of Columbia.

Mr. DAGGETT, from the committee to whom was referred a resolution directing a distribution of certain laws, among the members of the Fifteenth Congress, reported it without amendment.

Mr. FISK, presented the petition of Silas Willard, of Barre, Vermont, praying the remission of a bond, forfeited to the United States, for reasons stated in the petition; which was read, and referred to the Committee of Claims.

Mr. TROUP submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate such information as he may possess, touching the execution of so much of the first article of the late Treaty of Peace and Amity between His Britannic Majesty and the United States of America, as relates to the restitution of slaves, and which has not heretofore been communicated.

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On motion by Mr. NOBLE,  
*Resolved*, That so much of the Message of the President of the United States as relates to the militia, be referred to the Committee on the Militia.

On motion by Mr. TAIT,  
*Resolved*, That so much of the Message of the President of the United States as relates to naval affairs, be referred to the Naval Committee.

The Senate resumed the consideration of the motion of the 12th instant, for instructing the Committee on the Judiciary, which, having been amended, was agreed to as follows:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of passing a law on the subject of bankruptcies or insolvency. Also, that the aforesaid committee inquire into the expediency of further provision by law, for the punishment of offences committed in places within the exclusive jurisdiction of the United States. Also, into the necessity of further defining piracy, and other offences committed on the high seas, and into any defects existing in the laws of the United States for the punishment of crimes and offences.

The Senate resumed the consideration of the motion of the 12th instant, for instructing the Committee on the Judiciary to inquire into the expediency of dividing the State of Pennsylvania into two judicial districts, and establishing a district and circuit court of the United States at Pittsburg, in the county of Allegheny; and agreed thereto.

The Senate resumed the consideration of the motion of the 12th instant, that so much of the President's Message as relates to roads and inland navigation, and seminaries of learning, be referred to a select committee, and agreed thereto; and Messrs. LACOCK, KING, BARBOUR, OTIS, and MORROW, were appointed the committee.

Mr. BARBOUR submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to communicate to the Senate, such information as he may possess, and which the public interest will permit him to disclose, relative to our pending negotiation with Spain.

The Senate resumed the consideration of the motion of the 12th instant, that so much of the Message of the President of the United States, as relates to the public lands, be referred to the Committee on Public Lands; and agreed thereto.

The Senate resumed the consideration of the motion of the 12th instant, that so much of the Message of the President of the United States, as relates to the surviving officers and soldiers of our Revolutionary Army, be referred to the Committee on Pensions; and agreed thereto.

The bill entitled "An act supplementary to the act establishing the Mint, and the act concerning the Mint," was read the second time, and referred to the Committee on Finance.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the bill, entitled "An act to abolish the internal duties," reported it with amendments which were read, and consider-

ed as in Committee of the Whole; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments having been concurred in by the Senate, the amendments were ordered to be engrossed, and the bill read a third time as amended.

Mr. DAGGETT, from the committee to whom was referred the resolution authorizing the distribution of certain public documents, reported it with amendments; which were read.

The Senate resumed the consideration of the motion of the 12th instant, for instructing the Committee on Public Lands to inquire into the expediency of providing, by law, for perpetuating certain land marks; and agreed thereto.

The Senate resumed the consideration of the motion of the 12th instant, that the memorials of the commissioned officers of the Mediterranean squadron, and of the marine officers, then in the Mediterranean, representing certain grievances, be referred to the Committee on Naval Affairs; and agreed thereto.

TUESDAY, December 16.

ISHAM TALBOT, from the State of Kentucky, arrived the 15th instant, and attended this day.

Mr. WILSON presented the memorials of a number of persons residing in the State of Pennsylvania, praying that the internal duties may be abolished, for reasons stated in the memorials; which were read.

Mr. LEAKE presented the memorial of the Mississippi Convention on the subject of certain land claims, and praying some legislative provision in relation thereto; and the memorial was read, and referred to the Committee on the Public Lands.

Mr. LEAKE also presented another memorial from the same convention, praying an extension of the limits of that State, for reasons stated in the memorial; which was read, and referred to a select committee to consider and report thereon, by bill or otherwise; and Messrs. LEAKE, TROUP, and WILLIAMS, of Tennessee, were appointed the committee.

Mr. TICHENOR presented the petition of Ephraim Shuler, De La Fayette Wilcox, and Alphonso Wetmore, first lieutenants of the sixth regiment United States infantry, stating, that during the late war, while engaged in action with the enemy, they received several severe wounds, which have occasioned to each the loss of an arm, and praying pensions in consideration thereof; and the petition was read, and referred to the Committee on Pensions.

Mr. MORROW submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of prohibiting any location or surveys being made under military land warrants, on lands in the Virginia military tract, to which the Indian title has not been extinguished, for a period of — months, after the ratification of any treaty formed for the extinguishment of such title. And also, that they inquire what provision should

be made for extending and fixing a boundary line between the lands aforesaid and the public lands of the United States.

On motion, by Mr. ROBERTS, the Committee on Finance, to whom was referred the petition of Joseph Aborn, were discharged from the further consideration thereof, and it was referred to the Committee on Commerce and Manufactures.

Mr. WILLIAMS, of Tennessee, presented the representation of the General Assembly of the State of Tennessee, respecting the grants of lands in that State, by the State of North Carolina; which was read, and referred to the Committee on the Public Lands.

Mr. MORROW submitted the following motion for consideration:

*Resolved*, That a committee be appointed to inquire whether any, and if any, what Legislative provision is necessary to be made, for ascertaining and establishing the northern boundary line of the State of Ohio; and that they have leave to report by bill or otherwise.

The Senate resumed the consideration of the motion of the 15th instant, that the Committee on the Judiciary be instructed to inquire what provisions are necessary to give effect to the laws of the United States within the State of Mississippi; and agreed thereto.

The Senate resumed the consideration of the motion of the 15th instant, for information touching the execution of so much of the first article of the late Treaty of Peace and Amity, between His Britannic Majesty and the United States of America, as relates to the restitution of slaves; which has not heretofore been communicated; and agreed thereto.

The Senate resumed the consideration of the motion of the 15th instant, for requesting the President of the United States to communicate information relative to our pending negotiation with Spain; and agreed thereto.

The amendments to the bill, entitled "An act to abolish the internal duties," having been reported by the committee correctly engrossed, the bill was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution directing a distribution of certain laws among the members of the Fifteenth Congress; and no amendment having been made thereto, the PRESIDENT reported it to the House; and it was ordered to a third reading.

The Senate resumed, as in Committee of the Whole, the resolution authorizing the distribution of certain public documents, together with the amendments reported thereto, which having been amended were agreed to, and the PRESIDENT reported the resolution to the House accordingly; and the amendments having been concurred in, the resolution was ordered to be engrossed, and read a third time.

#### COLLECTION OF DUTIES.

The Senate resumed the consideration of the motion of Mr. SANFORD, of the 5th instant, directing the Committee on Finance, to make in-

quiry relative to the collection of ad valorem duties on importations.

Mr. SANFORD rose and addressed the Chair as follows:

Mr. President: According to the laws now in force, the duties on merchandise imported are of two classes; those which are usually denominated specific; and those which are imposed on the value. The specific duty is charged upon the article, according to some denomination, or quantity; and is determined by the number, weight, or measure of the article; as cigars, by the thousand, teas and sugars, by the pound; wines and spirits, by the gallon, or salt, by the bushel. The duty on the value is a certain proportion of the value; as ten or twenty per centum. The ad valorem duties are calculated, not upon any value which the merchandise may bear, but upon its actual cost in the foreign country from which it came, with an addition of twenty per centum to the cost, if imported from places beyond the Cape of Good Hope, and ten per centum if imported from any other place.

The foreign cost of merchandise is, therefore, the basis of the ad valorem duties; and that cost must be ascertained, in order to ascertain the duties. This principle having been adopted, the provisions of the existing system for the collection of these duties were devised, in order to carry it into effect.

Where the duty is specific, the quantity of goods is ascertained by a public officer, by actual enumeration; weighing, gauging, or measuring, before the goods are delivered to the owner or consignee. Where the duty is on the value, the foreign cost is determined, for the purpose of charging the duty upon it in ordinary cases, by the owner of the goods, or by his consignee, or agent representing him. This is done by an entry of the goods at the custom-house, by the owner, consignee, or agent, who at the same time produces the invoice and bill of lading attending the importation. The entry and the invoice state the prices or cost of the goods, and the person making the entry swears that they are true. When this has been done, the goods are, in ordinary cases, without any farther investigation, concerning their value or cost, delivered to the owner or his agent; and the foreign cost, thus obtained, is the basis upon which the duties are computed.

From the slightest view it is apparent that this method of determining the cost of goods subject to duty on the value, is exceedingly liable to evasion, by untrue statements of the foreign cost upon which the duty is charged. The cost is determined, in most cases, merely by the person who is to pay the duty. The party required to pay the duty; the party whose profit or loss must always depend wholly, or in part, upon the amount of duty charged and paid on the goods; the party interested to reduce the duty as much as possible, is allowed to make his own statement of the cost: and this cost, so stated, is, in most cases, the sum upon which the duties are calculated and paid. Of all temptations to undervalue merchandise, it



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does not seem possible to devise one more direct and dangerous than to give to the party who is to state the value all the benefit of an undervaluation.

The present system for the collection of these duties, however, contains provisions which seem to have been considered sufficient, when the system was adopted, to secure the revenue against the effects of danger so obvious and great as that of allowing the party interested, the owner of the goods, or his agent, to determine the sum upon which the ad valorem duties shall be paid. The securities, and the remedies provided by the present system, are these:

1. An entry of the goods must be made by the importer, consignee, or agent. The invoice is to be produced at the time of making the entry. The invoice and the entry state the cost of the goods; and the person who makes the entry, takes an oath that they are true, and contain a just account of the cost.

2. If the merchandise shall not be invoiced according to its actual cost at the place of exportation, with design to evade any part of the duties, the goods, or the value of them, shall be forfeited.

3. If the collector shall suspect that the goods are invoiced at a sum less than that for which they have been usually sold in the foreign country from which they came, he may retain them until an appraisement shall have taken place; when they have been appraised, the duties shall be paid upon the appraised value.

Such are the provisions of the present system applicable to this subject. It is believed, that in fact, and in practice, these provisions are now entirely inadequate to the object of securing fair and just valuations, as the basis of the ad valorem duties.

It seems to have been supposed by the authors of the present system of collection, that the invoice which would appear at the custom-house would be an instrument prepared by the foreign seller of the goods, and transmitted by him to the purchaser or importer, who would produce it upon making his entry. Such an invoice, which is a bill of parcels and prices really furnished by the foreign seller, is, undoubtedly, often produced at the custom-house. But, in the present course of trade, a very great part of the merchandise subject to ad valorem duties, which is now imported, comes attended by invoices prepared in a very different manner.

In many cases the goods are purchased by a partner or agent, who is sent to Europe, or employed there for that purpose. The partner or agent purchases from the foreign manufacturers or merchants, as opportunities are favorable; and often in different parcels, at different times; and perhaps from several persons at different prices. The goods intended for one consignment are collected into one parcel, and it is said that a new invoice of that consignment is prepared by the partner or agent, and sent with the goods to this country.

Another large part of these goods is now sent to this country by foreign merchants, for sale on

their own account. In this case, the goods are purchased from manufacturers, or other merchants, and invoices may pass between the foreign seller and the foreign buyer. But it is understood that the invoices which accompany the goods to this country, are prepared by the merchant who exports the goods, and are of course adapted to his own views and objects.

Another very considerable part of these goods is now sent to the United States by the foreign manufacturers, for sale on their account. In this case the only purchase made by the manufacturer was of the raw material; and the goods have not yet been sold or bought, in their manufactured state. The manufacturer, therefore, thinks himself quite at liberty to place any value he pleases upon his own labor and industry, which have been applied to the raw material. He accordingly prepares an invoice, expressing the value or cost at the lowest sum which he thinks likely to pass the custom-house at the port of importation.

In all these cases, the invoices exhibited at the custom-house do not proceed from any foreign seller of the goods. They are not prepared for any of those objects which are usual or necessary between merchant and merchant, between vendor and purchaser, or between creditor and debtor; but they are, in truth, prepared and sent for the sole purpose of being used at the custom-house, to establish the sum upon which the duties shall be paid; and they are of course adapted to that object.

If in any of these cases the consignor of the goods thinks it expedient to furnish his agent or partner here, with directions concerning the terms upon which the goods are to be sold, he does so. These directions are sometimes given in the form of an invoice, stating the true cost or value of the goods upon which the partner or agent here may be instructed to require a certain advance when he sells. This other invoice is intended, if I may use a cant phrase, to sell by, and not to enter by. As the first invoice is intended for the custom-house, the second is intended for the private use of the partner or agent here, to show him how much the goods really cost, and to be shown by him to those who may desire to purchase, and may wish to know the true foreign cost of the goods. But as the consignee, who is furnished with two different invoices, and produces only one of them to the custom-house, is exposed to the charge of perjury, other courses, free from that danger, are frequently pursued. Instead of a second invoice, the consignee is sometimes furnished with an account of the goods, which does not state their foreign cost at all, but states the prices at which the owner is willing to sell them in this country. This account is entirely silent in respect to the foreign cost of the goods, and expresses nothing contradictory to the invoice of the foreign cost, exhibited at the custom-house. Another course frequently taken, is to send the invoice, which expresses the true cost, to a third person, who is also an agent of the consignor, with instruction and authority to demand and receive the goods from the con-

signee, who makes the entry, after the goods shall have passed through the forms of the custom-house. The second agent thus obtains possession of the goods, while the true invoice of their cost never was in possession of the consignee, who made the entry.

The proofs of the foreign cost, given by the importer, are his entry, his invoice, and his oath. The invoice is a full account of the particular goods composing the consignment, with their foreign prices. The entry, the form of which is prescribed by law, contains a brief statement of the foreign cost, corresponding with the invoice. It is always made in conformity to the invoice, and always states the amount of the cost, as it is stated in the invoice. The oath is also in a prescribed form. It is, in substance, that the invoice and entry are true. When this oath is taken at the custom-house, no question is asked; no inquiry or examination, beyond the oath, takes place, and no farther disclosure whatever is required from the person making the entry, concerning the value or cost of the goods, or concerning any matter stated in the invoice, entry, or oath. After the goods have been entered in this manner, the invoice is returned to the person who produced it, and the entry and the oath remain in the custom-house.

Thus, the foreign cost of the goods is determined by the oath of the person making the entry, for everything rests upon his oath. The cost is, indeed, stated in the entry; but there is no proof that the entry is true, excepting the oath. The cost is also specified in the invoice; but the only proof that the invoice is true, is the oath. The invoice, indeed, specifies the particular articles, and their prices, in detail; but these specifications might be comprised in the entry or in the oath. The entry, the invoice, and the oath, taken together, amount to no more, in effect, than a declaration, upon oath, that the goods cost a certain sum of money. If the cost were stated in the oath itself, the oath would possess all the intrinsic weight which can now be attributed to the entry, the invoice, and the oath united; since, if the invoice and entry are true, the oath specifying the cost would be true, without them; and, if they are false, the oath is false.

The oath taken upon making the entry, also contains a promise that, if the person making the entry shall afterwards receive any invoice different from that exhibited, he will report it to the collector. This promissory part of the oath is useless in practice. No other invoice is reported; and if a second invoice should be produced, the present system is destitute of proper provisions to verify it, or to obtain the duties upon the cost stated in it. The goods pass the custom-house, and go into the possession of the owner, or his agent, immediately after they are entered, and the duties upon the first invoice are paid or secured.

Still it seems to have been supposed, that some additional security to the revenue is afforded by an invoice, independently of an oath, or any other evidence, to show that the invoice is genuine.

It is only upon this supposition, that we can account for the importance ascribed to invoices, in the present system of collection. The owner of the goods must know the price which he gave for them; and he might be required to state that price either without or with an invoice. When an invoice arrives in this country, there is evidently no other tie upon the person who holds it, to produce it at the custom-house, excepting the sanction of the oath which he is required to take. That sanction, if sufficient to bring forth the true invoice, would be equally sufficient to bring forth a true account of the cost, without the invoice. If the importer were required to produce his ledger, in order to show the prices paid or the cost with which he had charged himself, the security to the revenue would not consist in the name of the document required or furnished, but would depend entirely upon the oath which would be employed as a test to discriminate between a true and a false ledger. It, therefore, seems evident that, excepting the provisions of forfeiture and appraisement, which will be considered in the sequel, the efficacy of the present method of determining the foreign cost, depends altogether upon the efficacy of the oath taken upon making the entry.

When the perjury is committed, by swearing that a fictitious invoice is true, the danger of legal punishment is much less than in most cases of perjury. The merchandise was purchased in a foreign country, the price was paid in a foreign country, and the invoice was probably prepared in that country. The fact in question, is, what price was really paid for the merchandise in the foreign country. From the course of the transaction, and the nature of the fact in question, the testimony requisite to maintain a criminal prosecution for perjury can very seldom be obtained in this country. It is improbable that a parcel of merchandise should be purchased in a foreign country, for half of its value; but it still may be a fact that it was so purchased. To support a prosecution for perjury, it must be proved that the merchandise was not purchased at the price stated in the invoice. If the merchandise was, in truth, purchased at any other price, the proof of that fact could, in general, be found only in the foreign country where the purchase was made. In general therefore, the only proof of a false statement of the cost in the invoice which can be offered in this country, is the improbability of the cost stated, resulting from the apparent disproportion between the foreign value and the foreign cost stated. The presumptive evidence can hardly be sufficient to induce a conviction for perjury, and the crime must generally pass unpunished, not because it has not been committed, but because, from the nature of the case, the proofs requisite to inflict punishment can seldom be obtained.

But it is by no means true, that perjury is always committed where an entry is made upon a false invoice. By the regulations of the present system, the entry of the goods may be made by the owner, consignee, or agent. Where the



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owner of the goods himself makes the entry, produces a false invoice, and takes the oath prescribed, he plainly commits perjury. In this case, as the owner of the goods must know their cost, and as the only object of an undervaluation in the invoice is to obtain an advantage to the owner, the false invoice must necessarily have been prepared or procured by him, and its falsehood must be known to him.

But where the entry is made by a consignee or agent, who is not himself the owner of the goods, the case is very different in this respect. The consignee or agent, in this case, knows nothing, or may know nothing, of the invoice, except that it is sent to him as genuine and true. He therefore makes the entry upon the invoice which he has received, and takes the oath, stating, in substance, that the invoice produced is the true and only invoice which he has received, and that he has no knowledge of any other invoice or account of the goods, different from that produced. The consignee or agent who makes this use of an invoice, and takes this oath concerning it, is considered as incurring neither legal guilt nor public censure, inasmuch as he is supposed not to know the real cost of the goods, and, if the cost is falsely stated, the benefit of an undervaluation is not for himself, but for others.

The present system leaves the owner of goods, which are about to be imported into the United States, at perfect freedom to consign the goods, or cause them to be consigned, to himself or to any other person. Goods are frequently sent to a consignee or agent here, who is not the owner, in the ordinary course of commerce, and without any view to the duties on the importation. Where the goods are sent to this country by a foreign manufacturer, or a foreign merchant, for sale, on his own account, the consignment is, of course, made to some person, who is a mere agent of the foreign owner. But the consignment may be to an agent in every case; any importation may be made in that manner; and this may be done as well when the owner is in this country as when he is a resident of a foreign country. It is therefore in the power of any owner of goods which are to be imported into the United States, to consign them, or direct that they shall be consigned, to a person, or agent, who has no knowledge of the foreign cost of goods, who knows nothing of any invoice, except that which is sent to him, and who may, without perjury, enter the goods, and take the oath required at the custom-house.

Thus the owner of goods about to be imported may, in his own pleasure, cause the consignment to be made in such a manner, that the entry of the goods shall be made upon a false invoice, by another person, as consignee. The consignee knows nothing of the foreign cost of the goods, and therefore is supposed not to commit perjury. Yet his oath is received, and allowed to verify the invoice, stating the foreign cost, upon which the duties are charged. The invoice, and the foreign cost expressed in it, are established by an oath; but the penalties of perjury are completely eluded. But it was foreseen that the oath of an

agent, who is a stranger, is the material fact; the foreign cost, concerning which he swears, would afford no security to the revenue. The law, therefore, provides, that when the entry shall be made by an agent, factor, or person other than the owner, or other than the person to whom the goods are ultimately consigned, a bond shall be taken that the real owner shall himself furnish an entry or account of the goods upon oath. But this provision presents no difficulty in practice to those who choose to pay duties merely upon the entry and oath of an agent. Where such is the object, care is taken not to express any secondary or ulterior consignment of the goods to a third person, in the papers exhibited at the custom-house. The only papers required to be produced upon making the entry are the bill of lading and the invoice. These express a consignment in general terms, not distinguishing whether the consignee is the owner of the goods, or the agent, factor, or representative of the owner. At the custom-house no question is put to the person making the entry, no information is required from him beyond the well known forms established by law, and no other disclosure is required respecting the owner of the goods, or their farther destination. The consignee named in the invoice and bill of lading thus stands as the person to whom the goods are ultimately consigned. It does not appear from these documents whether he is owner or agent; no investigation is authorized or allowed, to ascertain whether he is the owner of the goods or not; his oath establishes the invoice which he offers, and upon the cost stated in that invoice the duties are taken. Another device, which is supposed to secure the parties concerned from the charge of perjury, is now frequently practised. Two agents are employed here by the consignor who sends the goods to this country. The goods are consigned to the first agent, with all the usual commercial documents, and among them is an invoice stating the foreign cost of the goods far below the truth. The consignee enters the goods upon this invoice, which is the only invoice received by him. He is, however, instructed to hold the goods, subject to the order of the second agent, and to deliver them to him when they shall be demanded. The second agent is furnished with another invoice, expressing the true foreign cost of the goods; and he is authorized and instructed to receive the goods from the first agent, after the duties shall have been adjusted. The duties are accordingly paid or secured at the custom-house upon the false invoice produced by the first agent; and the goods are immediately delivered over to the second agent, who holds the true invoice. By this legerdemain the duties are paid on a false invoice; the owner of the goods has, through his second agent, the use of a true invoice for every purpose, excepting that of paying duties upon it; and nobody is supposed to commit perjury in this course of proceeding.

The provision, that the goods or their value shall be forfeited, if they are invoiced at less than their actual cost, would seem in theory to

be a strong security against this species of fraud; and if the loss of the property, or the value of it, were really and certainly to follow the offence, the penalty would be very adequate to the object. But in practice this provision is found to be almost wholly inoperative. Frequent as the fact of false invoices undoubtedly is, it is seldom that a prosecution for such a forfeiture is instituted; and where such prosecutions have been instituted, scarcely an instance is known where one has been successful. The allegation upon which such a prosecution proceeds is, that the goods were invoiced at less than their actual cost at the place of exportation. This fact is, from its nature, exceedingly difficult to be established in this country, by proofs on the part of the prosecution. It may be true that the importer purchased the goods in Europe for one-third of their value; for, though such a case may be rare, it may occur. No witness can be found in this country who is able to say negatively that the goods were not in fact purchased for one-third of their value. In general, therefore, these prosecutions rest wholly upon the apparent inadequacy of price, or the supposed disparity between the foreign value and the foreign cost stated in the invoice. This evidence, resulting from this disparity, is also frequently uncertain on account of the uncertainty of the foreign value. It is at best only presumptive; and, unless the disparity is excessive, is considered scarcely sufficient to establish a charge of fraud. But these prosecutions are generally decided upon proofs produced by the claimant or defendant resisting the forfeiture. The question being what the goods cost in a foreign country, the proofs of that fact must come from that country. The course of proceeding in the prosecution for the forfeiture of the goods, or their value, is, that the claimant or defendant obtains a commission from the court to take the testimony of witnesses in the foreign place from which the goods came. The commission is sent to examine his witnesses, who are to prove the actual cost; and their testimony is taken in writing, and transmitted to the court here. Generally, the witnesses do not fail to give testimony, the goods were truly invoiced according to their actual cost. There is very seldom any positive evidence in contradiction to this testimony, and the court, proceeding upon legal proofs, decides against the prosecution. Thus the question is decided upon testimony appearing fair, indeed, upon paper, but given by witnesses in a foreign country, who may be unworthy of credit, and who at least testify in a manner which does not subject them to the punishment of perjury. Is it surprising that an importer, who has himself committed perjury in making his own entry, should find witnesses in the foreign country who will support his oath with theirs, and prove whatever may be requisite to insure success to the fraud? And it is very natural that the officers of the customs, finding it almost fruitless to make seizures or institute prosecutions for this cause, should seldom attempt them. Nor is there any fault in the courts of law in this respect.

The difficulties which obstruct the operation of this provision of forfeiture result from the system itself. The price given for the goods in a foreign country being taken as a basis for the ad valorem duties, it is unavoidable that the proofs of that price should, in contested cases, be drawn from that country; and if there is danger of perjury in making proof of the fact in the first instance here, the danger of that crime is far greater when the proofs are to be obtained from the foreign country.

The provision that, when the collector shall suspect that the merchandise is not invoiced at the price usual at the place of exportation, he may require an appraisement, would also seem to promise a security against the fraud in question. This provision, though useful in practice, to some extent, is also believed to fall very far short of an adequate remedy. It is insufficient to prevent or correct the fraud of false invoices and entries, for many reasons.

1. It is a power to be exercised when the collector shall suspect fraud. He may exercise it or not, at pleasure.

2. The collector in general derives no personal benefit from increasing the duties of an appraisement. His commissions upon the duties, in any particular case, are, of course, increased by increasing the duties in that case. But, as the amount of the collector's emoluments is limited, and as, in several districts, the ordinary emoluments exceed the amount limited, the additional commissions, in such particular cases, in those districts, may be considered as a part of the excess, and belonging, in effect, to the public, and not to the collector. And in all the districts, as the effect of severity, on the part of the collector is, to turn the importations into some other district where more gentle treatment is received, he will probably lose more by diminishing the total amount of importations into his district than he will gain by increasing the duties upon some particular importations. So far, then, as the personal interest of the collectors is concerned in the exercise of this power, it appears that some of them can gain nothing, and that, in general, they are more likely to lose than to gain by requiring appraisements.

3. The collector cannot require an appraisement until an entry has been made. To require an appraisement after an entry, is to allege, in the most direct manner, that the entry was fraudulent, and to advance a charge of perjury, in some cases, and of fraud in all. It must be at least disagreeable to the collector to select particular persons, and particular cases, as the objects of such a charge.

4. When an appraisement takes place, it is made by two persons, one of whom is chosen by the collector, and the other by the owner of the goods. The law, indeed, directs that these two persons shall be reputable merchants; but there can be no investigation to ascertain whether they are, or either of them is, reputable, or indifferent, or incompetent. The appraiser appointed by the importer may be his secret partner, his agent, or

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his friend; or he may be, as his constituent who made the entry often is, a foreign agent, employed in the importation of goods, and in entering them at the custom-house, on account of foreigners. The collector cannot object to him for any reason whatever. In general, the appraiser appointed by the collector may be impartial. The appraiser appointed by the owner of the goods is always at least his firm friend, and very often his real agent.

5. To make a just valuation, it would frequently be necessary that the appraisers should give some time and considerable attention and trouble to the object of their appointment. No compensation is allowed by law to the appraisers for their services. Of course, they receive nothing from the public; and if they, or either of them, receive any compensation, it is from the other party, the importer, who is at liberty to act in this respect as his own interest may dictate.

6. No person is obliged to act as an appraiser. Hence the appraiser appointed by the collector frequently declines to act, the merchants who are most respectable and most competent being often unwilling to engage in these odious investigations. The appraiser selected by the importer is always ready to act; and the collector must either find a person who is willing to act with him, or he must abandon the proposed appraisement, and submit to take the duties upon the invoice and the entry already made.

7. There is no provision for the case of a disagreement between the two appraisers. Either of the appraisers may therefore prevent an appraisement by insisting on a valuation to which the other will not accede. If no appraisement is made, the duties are taken upon the invoice; consequently it is in the power of the appraiser appointed by the importer to prevent any valuation which shall exceed the invoice; and, if such disagreements between appraisers have not often happened, the reason is, that in most cases, their appraisements have not exceeded the invoices in question.

8. The appraisers are required to determine, not what the goods are worth here, but what they cost in the foreign country from which they came. This is often a question of real difficulty. The state of the foreign market, at a particular time, may, in some cases, be known with much exactness. In many others, it is entirely unknown, or known very imperfectly. In all cases the appraisers have an unlimited latitude to adopt any proofs, information, or opinions concerning the foreign value or price which may be acceptable to them.

9. From the considerations stated, it is perhaps not surprising that the goods are frequently appraised at the very lowest sum for which they could possibly, in any circumstances, have been purchased in the foreign country. This, indeed, is the best result for the public which can be expected from this proceeding. More generally, the appraisers, by their valuation, confirm the invoice. In some cases they make inconsiderable additions to it, and in some others they ap-

praise the goods at a less sum than the cost stated in the invoice.

10. Thus the importer, who wishes to evade a part of the duties, attains his object in one way or the other. If his invoice passes without an appraisement, he pays duties on the cost which he has stated. If an appraisement takes place, the duties are paid on the appraised value, which is never high, always very moderate, generally very low, rarely exceeding the invoice, and sometimes less than the invoice. In either case he pays duties on a value less than that which he gave for the goods.

11. As the invoice is usually confirmed by the appraisement, unless the undervaluation is very exorbitant, the importer is able to judge what reduction, from the true value, he may safely venture to make in the invoice; and the collector may not think it expedient to require an appraisement, where there is no reason to suppose that the public will gain anything by that measure.

12. From these, or other causes, the cases in which appraisements are required by the collectors, are comparatively but few. In addition to the legal power of the collectors, they have been instructed by the Treasury to exercise that power freely, and to require an appraisement wherever there might be reason to suspect too low a valuation in the invoice. Still the power is, in fact, not often exercised, so far as is known: and by far the greatest part of the ad valorem duties is computed and received upon the cost stated in the invoice presented by the owner of the goods, or his agent.

Upon the whole of this part of the subject, it is conceived, that the power of the collector to require an appraisement, though it may operate, in some degree, to prevent great and flagrant undervaluations, is a very partial and ineffectual restraint upon the smaller undervaluations of five, ten, fifteen, twenty, twenty-five, thirty, forty, and fifty, per centum less than the just value, or cost, of the goods. And there is no doubt that the frauds of this kind, from which the revenue suffers most, are false valuations of the latter class; in which the cost expressed in the invoice is less than the real cost by ten, fifteen, twenty, twenty-five, thirty, or forty per centum. It is in these cases that an actual appraisement seldom takes place. When, in these cases, an appraisement does take place, little or nothing is gained by it; and sometimes the value is reduced by the appraisement below the cost stated in the invoice.

Such is the course of things where an invoice is furnished to the custom-house. But it often happens that no invoice is produced. This occurs in two cases: first, where the invoice is really lost, or is not received by the owner, consignee, or agent; and, secondly, where, though the invoice has been received, the person holding it chooses to suppress it, and to pretend that it has been lost or not received. In either case, the course of proceeding is the same. The goods are to remain in the public store until the invoice shall be produced, or an appraisement shall take place; and the owner or agent has the option to

select either alternative. He, of course, chooses an appraisement, which accordingly takes place. The appraisement is made in the same manner as in the case where an invoice is produced and an appraisement is required by the collector. Two persons are appointed, one by the collector, and the other by the owner or agent; these two appraisers determine the foreign value or cost as they think proper; and the duties are then taken upon their appraisement. In this case, there is no charge of fraud in furnishing a false invoice. With this exception, it is evident that all the difficulties, objections, and abuses, which occur in appraisements required by the collector, must also occur, as they do in fact in this case, where an appraisement is required by the importer.

Our law requires that the invoice shall be produced where there is one; but we have no law requiring that the importation shall be attended by an invoice. The only consequence of the want of an invoice is an appraisement; and the advantages of an appraisement to the importer, under the present system, have been stated, and are well known. If the person making the entry swears that he has not received an invoice, when he has in truth received one, which he suppresses, he clearly commits perjury. But it is not at all necessary to expose any of the parties to the perils of this crime. It is in the power of the owner or shipper abroad to send no invoice at all; to withhold the invoice until an appraisement shall have taken place, or to send it to another friend, who may withhold it from the consignee, until an appraisement shall have taken place; or he may direct the consignee to hold the goods until further orders; or he may give an authority to his other friend and agent to demand and receive the goods after the duties shall have been adjusted; or he may direct the consignee to sell the goods at auction. In any of these cases the goods may come to the consignee unaccompanied with any invoice; for want of an invoice they are appraised, and the advantages of that proceeding to the owner are obtained, while no charge of turpitude is supposed to fall upon any of the parties concerned, who, though they have deviated a little from the ordinary course of commerce, have still transacted their business entirely within the limits of the revenue laws.

Thus the foreign costs of the goods is determined, in all cases, either by the person making the entry or by an appraisement; and such is the operation, in practice, of these two modes of determining the sum upon which the ad valorem duties are paid.

The general result of these facts and views is as follows:

1. An invoice of the foreign cost is no security to the revenue.
2. The foreign cost is determined by the oath of the person who makes the entry, in all cases, excepting those in which there is an appraisement.
3. Where there is an appraisement, that proceeding is subject to abuses, greatly injurious to the revenue; which have been stated.

4. The oath required upon making the entry, in order to determine the foreign cost, is no security whatever to the revenue, where the person making the entry is not the owner of the goods. The persons who make entries of goods belonging to others are supposed not to commit perjury; many of them are really ignorant of the foreign cost which their oaths are, nevertheless, allowed to establish; and they are all able to say of this proceeding, in the words of Hamlet, that it is as easy as lying.

5. The penalties of perjury and the forfeiture of the goods are almost inoperative in practice, on account of legal difficulties, and the necessity of resorting to a foreign country to prove the true foreign cost.

6. The checks and remedies for false statements of the foreign cost, provided by the present system, when they operate in practice at all, serve, in general, to prevent or correct only the extreme and most palpable cases of undervaluation, leaving all others to be the prey of unrestrained fraud.

Besides the fraud of false invoices, the present system is exposed to the danger of true invoices, founded upon fictitious sales in a foreign country. Nor is this danger merely imaginary, for instances are known in which sham sales have been made in another country, for the sole purpose of fixing the cost of goods about to be imported into this country. This has been done, particularly in Lower Canada; and goods have even been sold, ostensibly, at public auction, with all the ceremony, and circumstances, and witnesses, usually attending a public sale, for the mere object of establishing a sum upon which our duties should be paid; in such a manner, that, if the price stated should be contested here, the importer might have it in his power to furnish proofs of a sale and purchase at the price stated. This proceeding is, indeed, nothing more than another mode of disguising the real foreign cost of the goods, and could not prevail here if the whole truth should appear. But it is because the whole truth of the real cost, and the fictitious sale can very seldom appear here, that this disguise is not detected, and the artifice has its intended effect upon our duties.

Other minor evasions and falsehoods in invoices occur in practice under the present system of assessing the ad valorem duties on the foreign cost, as stated in the invoice; the recital of which would be too prolix for the present occasion. The most important of these is the practice of disguising a part of the real foreign price of the goods, under the names of commissions, discounts, and other charges, which are deducted from the nominal amount of the invoice; for, by our law, the duty is calculated on the net cost of the goods, excluding such charges.

A very great part, perhaps about one-half, of all the articles subjected to duty on the value, which we import, are manufactures of wool and cotton. In these articles, in which the efforts of art and industry make great and very various additions to the value of the raw material, the

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fraud of false statements of the foreign cost is facilitated by the difference of fabrics and the variety of values. This fraud is accordingly practised in these articles to a great extent.

It is more particularly since the termination of the late war with Great Britain that the practice of sending goods to the United States to be sold here, on account of the foreign owner, has been carried to a very great extent. The consignment is made to a person here, who, by whatever name he may be called, is, in truth and effect, a mere agent of the owner of the goods. A suitable person for this agency is sent or selected, who makes the entry, pays the duties, and disposes of the goods for the benefit of his principal. This is the history of many great importations which have been made within the last three years, and which have indeed paid duties to the Treasury, but have paid much less than they should have done. Immense quantities of goods, subject to *ad valorem* duties, are sent to this country by foreigners, to be entered at the custom-house and pay duties, for account of foreigners, and finally to be sold here, in the first instance, on account of foreigners. The course of proceeding is well understood. The consignee or agent is not supposed to commit his conscience or his character in producing the invoice and making the entry. The principal has only to take care not to grasp too much. If he will content himself with any deduction from the true value of the goods which is not palpably excessive, his invoice, in all probability, passes without objection. If an appraisement is required, the value stated in the invoice is little, or not at all, increased. In either case the foreign owner, who is beyond the reach of our laws, and who has no other object but to obtain the most money for his goods, attains his object, and makes a very important saving in the duties. Where the *ad valorem* duties are considerable, as ours now are, varying from seven and a half to thirty per centum upon the foreign cost; where, upon the greatest part of the articles, the duties are twenty and twenty-five per centum; and where a considerable part of these duties may be saved by a course of proceeding well understood, and free from legal perils; a course of proceeding which is not only practised, but, under the present system, is easily practicable, it is not wonderful that the course should be pursued which will secure the advantage.

These great importations by foreigners, on their own account, have produced important consequences. They have demonstrated more fully than had been done before, that it is both practicable and easy, under the present system of collection, to evade a considerable part of the duties. They have been the principal cause, it is apprehended, of the very great sales at auction, especially of British manufactures, which have taken place within the period mentioned. The foreign owner, being desirous to obtain the returns of his merchandise as soon as possible, from a country in which he has no establishment, directs it to be sold at auction as soon as it has

passed through the forms of the custom-house. At auction it may sometimes sell for less than at private sale; but the difference is far more than compensated by the saving made in the duties. In a few months he finds his funds replaced to him, and he is ready to repeat the operation. These importations have also, in a great degree, destroyed the business of our own importing merchants. The illicit advantages which the foreigner abroad, and his agent here, obtain in the duties, enable them to undersell our own merchants, who import in the former course of business, and make true entries, upon true invoices. These advantages, enjoyed by the foreigner and his agent, being ascertained, operate as a new cause, producing further importations; which also take the course of those which preceded them. It is in these advantages that we find the principal cause of the revolution which has taken place in the course of this trade, and of the successful competition of foreigners against our own citizens in the importation of these goods. Thus, our own merchants are driven from their business by the fraudulent competition of strangers; a change has taken place in the course and manner of a great part of our importations, and this course of things is facilitated and encouraged by our present system of collecting the *ad valorem* duties.

I am sensible that a peculiar state of things in Great Britain, in 1815 and 1816, contributed much to augment the exportation of British manufactures to this country. The low prices of those manufactures, and the necessity of finding a vent for them, induced the holders to send them to this country, where they expected an advantageous market. The prices being really low, appeared so in the invoices, which were genuine, and because the prices were really reduced, and were, for some time, in a course of decline; these facts served as a convenient pretence for stating them still lower than they really were, in the invoices, which were fictitious. And there is good reason to believe that when the foreign holders of these manufactures had ascertained the success of their sales and savings in this country, they continued, from the ordinary motives of commerce, a course of trade, which, though commenced in some degree from temporary causes, had been found, by experience, to insure them a very decided advantage in the competition with the American importer.

Where one of our own merchants is the importer, and where he himself produces the invoice and makes the entry as the owner of the goods, it is believed that perjury or fraud very seldom takes place. He is deterred not only by the danger of legal punishment, but still more, by the moral restraints which surround him. The horrid nature of the crime of perjury, his religion, his moral sense, his own character, and the salutary control of public opinion, are all restraints which he feels in their proper force. The fair and pure character of our own merchants, as a body, certainly forbids the idea that they are capable of these frauds; and there is no reason to

suppose that they participate in them. It is because they do not participate in them that they suffer by them. If our own merchants had continued to be, as they heretofore were, the importers of these goods subject to *ad valorem* duties, the present system of collection, imperfect as it is, might have been sufficient, for integrity and honor would have supplied the place, and would have had the force of legal regulations.

It is obvious to all that a transient foreigner, the mere factor of a foreign merchant or manufacturer, is not bound to our country or its laws, by the force of morality, honor, personal character, and public opinion, those silken ties of society, in the same manner and to the same extent as an established merchant of our own country. But I mean no illiberal imputation against foreigners in general, or those of any particular country. But I mean that profligate men are found in other countries and sent to this, to act as agents, and carry foreign merchandise through the forms of our custom-houses, while they themselves are unknown to our citizens, unestablished in our country, without reputation at hazard, appearing to-day and disappearing to-morrow, and free from those moral restraints and responsibilities which operate so powerfully upon the merchant who is known and has a fixed residence in any society. These are the men whose oaths determine what duties shall be paid to our Treasury; these are the men, who, with their principals and partners, are the competitors of our own merchants; and by these men it is that our merchants and manufacturers are rendered the victims of a fraudulent competition.

It would be interesting to ascertain accurately what proportion of the goods subject to *ad valorem* duties is imported by our own citizens, and what proportion by foreigners, or on account of foreigners; what part is entered by the real owners, and what part by agents of real owners. But these facts cannot be ascertained from the Treasury or from the custom-houses. The national character of the parties concerned in the importation is never investigated; and the real character of the person making the entry, as owner or agent, is in most cases concealed or disguised under the mask of a general consignment, as has been already stated. It is, however, supposed that more than one-half of the goods subject to *ad valorem* duties, which are now imported into the United States, are entered by persons who, with some difference of forms and names, are in truth the mere representatives of the owners of the goods.

It is impossible to ascertain with exactness the extent to which the revenue suffers by false invoices and appraisements of goods subject to *ad valorem* duties. The records of the Treasury and of the custom-houses would show the difference between the invoices and the appraisements required by the collectors, where there are invoices, and appraisements have been required; but they would show nothing more. This difference would indicate a very inconsiderable part of the loss of the revenue. The difference between the real

value, or *bona fide* foreign cost, and the sum upon which the duties are actually charged and received, is the great and important difference from which the loss to the revenue results. Of this difference nothing appears at the Treasury or at the custom-houses. If it extended to the subduction of one-half, or any other proportion of the *ad valorem* duties, still everything would be fair upon paper. The records of the Treasury would show the entries and appraisements upon which the duties had been paid; but they would show nothing else to establish the real and *bona fide* value or cost upon which the duties should have been paid.

As the records of the Treasury can furnish no material elucidation of the facts and views which have been stated, I have not proposed any formal call upon that department. I have, however, obtained from the Register of the Treasury a statement exhibiting the respective amounts of the *ad valorem* duties and the specific duties distinctly from each other, from the year 1794 to the year 1815, including both those years, which I submit to the Senate. The object of this statement is to show what proportion of the aggregate amount of our imports is subject to duties of the one class, and what proportion to duties of the other class; or, in other words, what part of the revenue is derived from *ad valorem* duties, and what part from specific duties. From this statement it appears—

1. That though the proportion between the amount of the *ad valorem* duties and the amount of the specific duties has varied considerably in the different years, both in the gross sums of each, and also in the net balances of each remaining after the deduction of drawbacks; yet that in each of the years, between 1793 and 1815, the gross amount of specific duties uniformly exceeded the gross amount of *ad valorem* duties, and that the excess was uniformly considerable.

2. That a much greater proportion of the merchandise subject to specific duties has been exported than of that subject to *ad valorem* duties.

3. That in every year between 1793 and 1815, excepting the years 1796, 1809, and 1810, the net amount of specific duties remaining after the reduction of drawbacks paid on exportation exceeded the net amount of *ad valorem* duties remaining after the deduction of drawbacks paid on exportation.

4. That in 1815 the proportion between the respective amounts of the two classes of duties which had generally prevailed before, was not only suddenly but greatly reversed; the gross *ad valorem* duties in that year being \$23,382,849, and the gross specific duties being \$14,784,274.

In order to attain minute accuracy in a comparative statement of the product of the *ad valorem* duties, and the product of the specific duties, in the several years of the period comprised in this statement, it would be requisite to bring into the calculation the different rates of duties which have existed at different times, and also the several changes which have been made in the *ad valorem* class, and in the specific class, by trans-



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ferring particular articles from one class to the other. If the investigation were pursued still farther, it would be necessary to take into view the relations of the United States with other countries, in the several years of this period. War and peace; neutrality and belligerent aggressions; our own laws prohibiting or restricting certain branches of commerce; the progress of our own manufactures, and other events have all had their influence upon the proportions between the amount of ad valorem duties and the amount of specific duties, which appear in the several years of this period. But minute accuracy, in these respects, is not necessary to the present purpose.

The net amount of the two kinds of duties respectively, in 1815, and the discrimination between the amount of ad valorem duties and the amount of specific duties, either gross or net, in the years 1816 and 1817, cannot at present be obtained from the Treasury. In the absence of official materials, it may be assumed, as the best conjecture which can be offered, and as a probable approximation to fact, that the proportion between the net amount of ad valorem duties and the net amount of specific duties, in each of the years 1815, 1816, and 1817, is the proportion which exists between the gross amount of ad valorem duties and the gross amount of specific duties, in the year 1815; or, in other words, that the net ad valorem duties for the years 1815, 1816, and 1817, are to the net specific duties for the same three years, as 23,382,849 are to 14,784,274. This being assumed, and taking the total net amount of duties on merchandise, for the years 1815, 1816, and 1817, to be eighty-four millions, which is somewhat less than it is made by the statements and estimates of the Treasury, it will follow, that of the sum of eighty-four millions, about fifty-two millions have arisen from the ad valorem duties, and about thirty-eight millions have arisen from the specific duties. This result, which is not meant to be strictly accurate, may suffice to show, in a general view, how great a part of our imports now consists of articles subject to duty on the value, and how large a part of our revenue is now derived from the ad valorem duties. It is also to be remembered that the amount of the ad valorem duties would be far greater, if they were collected as well as the specific duties.

But, without including any part of that portion of the ad valorem duties which is lost by frauds, it may justly be assumed, that the net amount of ad valorem duties is now higher, in proportion to the net amount of specific duties, than the gross amount of ad valorem duties is to the gross amount of specific duties, according to former experience, in this respect. Making some little allowance, on this account, in favor of the net ad valorem duties, and proceeding upon the facts and principles already stated, we are led to the conclusion that, of the total net revenue now received from merchandise, about two-thirds arise from the ad valorem duties, and about one-third arises from the specific duties.

Though it is not possible to ascertain, with exactness, the extent of the loss to the revenue in the ad valorem duties, arising from appraisements and false invoices, yet some probable estimate of the amount may be made. I have endeavored to form such an estimate. The amount of the loss I have heard estimated by very intelligent men, at one sixth, and at one-fifteenth part of the total amount of ad valorem duties which should have been received; and at all rates, between a sixth and a fifteenth part. Taking all the information which I have been able to obtain, and the estimates and opinions of well informed men, in whose knowledge and judgment I have great confidence, as the basis of my own opinion, I cannot estimate the loss to the revenue, arising from these causes, at less than ten per centum. By this I mean that, taking all the valuations upon which all the ad valorem duties are computed, as well those which are fair and just, as those which are fraudulent, and below the true value in various degrees, including also all the appraisements, and speaking of the years 1815, 1816, and 1817, the aggregate amount of all the entries and appraisements, has been less than it should have been, by at least a tenth part of the true cost or value. Thus, if the total amount of merchandise subject to ad valorem duties imported in a given period, is of the true value or cost of ten millions, the numerous undervaluations which take place in particular instances, reduce the total amount of the whole to nine millions; and thus a tenth part of the duties which should be paid is lost. I certainly do not profess to be accurate in a case where accuracy is unattainable. I can only say, that I have sought information from every source accessible to me; I have stated the facts as they appear to be from all the information which I have been able to collect: and I am obliged to conclude, that at least a tenth part of the ad valorem duties is lost by these frauds.

Estimating, then, that the loss in the ad valorem duties, arising from false statements of the foreign cost and appraisement, amounts to ten per centum, and taking the ad valorem duties for the years 1815, 1816, and 1817, at fifty-two millions, it follows that the loss to the revenue from these causes, during these three years, has exceeded five millions of dollars. The result will of course vary, according to the principles assumed.

This loss of revenue, whatever may have been its amount, has gone principally to enrich foreigners, at the expense of our own merchants, our own manufacturers, and our own Treasury.

My object, upon this occasion, has been, to bring into one view the provisions of the present system of collecting the ad valorem duties, as those provisions are established by law, and at the same time to exhibit a view of the manner in which the ad valorem duties are levied in fact; or, in other words, to present to view the theory and the practice of the system, by the side of each other. I have thus endeavored to point out the mischiefs which now occur in the collection of this branch of the revenue, to define their nature, and to state their extent.

Such being the practical operation of the present system of collecting the ad valorem duties, what is the cause of the evil? Is the evil to be ascribed to the officers charged with the execution of the system? I apprehend that it is not to be ascribed to them. I do not suppose it to be the fault of the officers of the customs, that the system operates in this manner. The present system is, I believe, executed as fully and fairly as can ever be expected, from the nature of its provisions. In my opinion, the fault is not in the administration of the system, but it is in the system itself. The basis of this system is the price or cost of the merchandise in the foreign country. That principle having been assumed, it was perhaps inevitably necessary to require invoices and oaths from persons interested, the owner, importer, or agent, in order to establish the foreign price or cost. These proofs are, in their nature liable to great abuse and perversion. It is because these proofs are essential to the present system, and because they are exceedingly liable to abuse, and are abused in fact, that the system itself is supposed to be unsound in this respect, or at least that it is no longer adapted to the present course of trade, and the present rates of duties. The checks and penalties upon false statements of the foreign cost, provided in the present system, are found to be feeble and inadequate in their operation; because, in attempting to enforce those checks and penalties, the same difficulties and the same abuses again occur; for here, as in the first instance, the question still is, what was the foreign cost of the merchandise? a question to be determined by proofs drawn from a foreign country, or by modes of proceedings which the profligate do not fail to pervert to their own illicit purposes.

So far as is known, the principle of making the foreign cost the basis of ad valorem duties, has never been adopted by any other Government, or in any other country; and is peculiar to our system of collection.

It is true that the present mode of determining the value of goods subject to duty ad valorem, has prevailed from the commencement of the present Government to this time. When the present system of collection was first established, the ad valorem duties were low, and the temptation to fraud was comparatively small. Many successive alterations were made in the rates of duty, by which, in most cases, the duties were advanced; but still, our duties, before the late war with Great Britain, were moderate, compared either with those which have since been imposed, or with the duties of other countries. It is probable, that for many years after the commencement of the duties and the system of collection, in 1789, the fraud of false invoices was not often practised; but it is believed that this species of fraud had, before the late war, gradually gained much ground, as the duties were gradually increased, and the methods of accomplishing the object, with impunity, became better understood.

By the act of the first of July, 1812, the duties then existing were doubled, and double duties were to continue for one year after the termina-

tion of the war. These duties were continued, by a subsequent act, until the 30th of June, 1816, when they ceased, and the present duties took their place.

During all these periods, and notwithstanding the augmentations in the rates, the system for the collection of the duties has remained, in substance, the same.

Consulting experience, the sure test of the past, and the safe monitor for the future, we learn, that, in proportion as the duties are increased, the collection is endangered; and in proportion as the duties are increased the Government must diminish its reliance upon the oaths of parties interested, as securities against fraud. It is therefore perhaps, not surprising, that the present system should have been found tolerably successful, in the collection of the low and earlier rates of duty; and that the same system should now be, in some respects, no longer adequate to the collection of duties so considerable as those which now are, and for sometime have been, in force.

I do not possess the means of judging of the extent to which merchandise is clandestinely introduced upon the Northern and Southern frontiers of the United States, in such manner as entirely to avoid the payment of duties. To whatever extent this species of fraud may be carried, upon those frontiers, it certainly does not occur, in any great degree, elsewhere. Laying out of view the loss to the revenue, from clandestine importation, it is believed that there is no other species of fraud, excepting the one in question, of false statements of cost, or under valuations, by which the revenue suffers, in any material degree. Indeed, all the other frauds, which now occur, or have at any time been practised upon the revenue, are trivial and inconsiderable, compared to this. The loss of so much money to the Treasury may, however, be of far less moment to the nation, than the baneful influence of so corrupt and corrupting an example. It is the first great and serious inroad which has been made upon our revenue by fraud. The path has been explored—it has been trodden with success; and will assuredly be pursued, if it shall remain open. The corrupting influence of this fraud, attended as it is, in part, by perjury, is obvious. The contagion of so pernicious an example cannot be too soon or too effectually arrested.

The justice due to our own merchants requires that these fraudulent practices should be corrected. To them the injury is deep and serious, in the same proportion as it is lucrative to the unprincipled.

I forbear to descant upon the subject of domestic manufactures. It is a great subject, closely connected with all the greatest and best interests of this country. I hope and trust that this Government will give to our own manufactures encouragement and support greater and more effectual than they have yet received. But the question whether farther protection shall be given to domestic manufactures is not now under consideration. The present question, so far as it concerns our manufactures, is, whether they shall



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really enjoy the protection which has been promised to them by the existing laws. It is, merely, whether the existing duties on imports shall be enforced and effectually collected? Surely the least that can be done for our own manufactures is to levy, in fact, the duties which the existing laws impose. Surely, if there were no other motive, the faith of the Government, as well as the just encouragement due to our own arts and industry, would require that our own manufacturers should not suffer by a fraudulent competition, or lose the protection which the Government meant to give, and which he expected to receive, in the existing rates of duties. A very large part of the foreign articles, now subject to ad valorem duty, come directly in competition with our own manufactures of the like articles; as, for example, all the manufactures of wool and cotton. Hence it is that the frauds which now take place in the collection of the ad valorem duties are as injurious to our own manufactures, as they are to the merchant and to the revenue.

I have thus attempted to place these mischiefs before the Senate. It belongs to the Legislature to provide a fit remedy. It is not my intention to attempt, at this time, a discussion of the various schemes and projects which might be suggested, as amendments to the system of collecting the ad valorem duties, or as substitutes for it. This subject is, in itself, one of much difficulty. The difficulty is perhaps greater in this country than in any other. The nature of our institutions and the genius of the people, forbid the exercise of those arbitrary powers which are invested in the revenue officers of most other countries; and they require, that the powers of our officers should be defined by law, as far as possible. The restrictions which are thus requisite for the security of private rights, become immediately the loop-holes of the law, through which the unprincipled escape with their illicit gains. The security of the revenue, on the one hand, and the freedom of commerce, to the honest merchant, on the other, are the two great objects which are to be reconciled and adjusted to each other, in any system of collection which may be established. These objects may, by wise provisions, be, in a very great degree, reconciled to each other; and we know, that where any abridgement of an unlimited freedom of commerce is necessary to the security of the revenue, the intelligent merchant is the first to approve and applaud judicious regulations, as useful to him as to the revenue, since it is only by such regulation that he and the public can be secured against the stratagems and frauds of the rogue.

But without attempting to discuss, or even to state, the various projects of reformation, which might be suggested, I shall briefly submit a few ideas upon this subject.

If the evasions and abuses which now occur result, as is believed, from the present system of collection, the remedy must be found, in some alteration of the system itself.

A considerable part, perhaps one-fourth or one-fifth in amount of the articles now imported, and

now subject to ad valorem duties, may, with entire convenience, be subjected to specific duties. [Mr. SANFORD here went into a statement of the articles to which he alluded, specifying those which he conceived might be very conveniently charged with duty upon the number, weight or measure, instead of the value.]

The advantages of specific duties over those imposed on the value, in point of security to the revenue, and in their fair and equal operation, are well known. The plan of specific duties is free from those inequalities and uncertainties which must always, in some degree, attend valuations. Such is the excellence of this mode of charging duties, that though our present specific duties, like those ad valorem, are high, compared with the earlier rates, and though the specific duties are in general much higher than those ad valorem in reference to the intrinsic values of the different subjects on which they are respectively imposed, yet it is believed that the specific duties are collected with greater punctuality and certainty, and without any considerable loss to the revenue. This fact likewise shows that the present system of collecting the specific duties is excellent, since it is found to be so by experience; and it also affords a very satisfactory proof that the losses now sustained by the revenue in the ad valorem duties do not result from any want of vigilance or fidelity on the part of the officers of the customs who collect both the ad valorem and the specific duties.

I am aware that the bulk and weight of many of the articles subject to specific duty afford a very important security to the revenue. But if these articles were subject to ad valorem instead of specific rates, it cannot be doubted, that the same evasions and frauds would take place in respect to them which now occur in all the articles now placed in an ad valorem class.

Still the articles, which will probably remain charged with duty on the value, will be very numerous, and of great amount in the aggregate of our imports: and a proper system for the collection of duties imposed on the value will always be necessary.

If it be true, as is believed, that the great source of the present mischiefs is the principle of the foreign cost, and if, as is also supposed, these mischiefs are inseparable from that principle, the principle itself should be abolished. The ad valorem duties, it is conceived, should be imposed and assessed upon the real value, which the merchandise may bear in this country at the time of its importation. The principle of the foreign cost being laid aside, all oaths, invoices, and proofs now required to show the foreign cost, and now so much employed as instruments of fraud, would of course be also abolished. The foreign cost or value being rejected, all the regulations founded on that basis would cease. The additions of ten and twenty per centum, now made to the foreign cost, would cease; and the rates of duty expressed in the tariff, would be simply and truly the whole amount of the duty exacted. The calculations which are now requisite, in order to

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convert the foreign denominations of money into our own currency, would be unnecessary; and the revenue could never suffer from any fluctuation in the currency of another country.

If the value of the merchandise here should be made the basis of the ad valorem duties, it would be necessary to revise the rates of those duties, in order to adapt them to the new basis of calculation, and to make the burden upon the intrinsic value of the several subjects, equal to that which they now bear under the present rates, and the present mode of calculation.

The value in question being the value here, if the importer were simply to enter his merchandise without oath, at any value which he might choose to place upon it: and if the merchandise were subject to forfeiture in case of an undervaluation, and to appraisement in doubtful or suspicious cases, the operation of such a plan would, it is supposed, be incomparably better than the operation of the present system. The question in every stage, and in every proceeding, would then be, what is the value of the merchandise in this country; a question always susceptible of satisfactory proof in the port at which the merchandise may arrive. The provisions of forfeiture and appraisement, when applied to the real value of the goods, after they reach our own shores, would probably operate with an efficacy which is scarcely felt, when the question in controversy is the foreign cost of the goods.

Or, instead of the provisions of forfeiture and appraisement, the British system may be adopted. According to that system, the importer enters his goods at any value which he chooses to affix to them. If the officers of the customs think, upon examination, that the goods are undervalued by the importer, they take the goods on account of the Government, and forthwith pay to the importer, from the money in their hands arising from the customs, the sum at which he has valued them, with an addition of ten per centum to his valuation, and the duties paid on the importation. The goods are then publicly sold on account of the Government. If the goods produce more than the sum paid to the importer by the officers of the customs, a moiety of the excess is given to those officers as a reward for their vigilance and fidelity. Thus, the interest of the importer, and the interest of the officers of the customs, are constantly arrayed against each other. It is the interest of the importer to enter his merchandise at a just value; for he is constantly exposed to the hazard of receiving for it no more than the amount of his own valuation, with the specified additions. Thus, the steady and active principle of personal interest, is constantly in exercise on both sides, and is at once the inducement to the importer to enter his merchandise at its fair value, and the inducement to the public officers to wrest it from the importer when it is undervalued by him. Perhaps no scheme of human policy has yet been devised for the purpose of securing fair valuations as the basis of duties, which tends so necessarily to that object in practice, as this plan which is now established and

pursued in Great Britain. This system is found in the statutes of the 27 George III, chapter 13, section 17; and the 54 George III, chapter 121, section 1. It may also be seen in Pope's custom and excise laws, pages 223, 224, and 225.

If, however, it should be deemed inexpedient to make a radical change in our system of collection at this time, the system may receive some amendments, which will perhaps mitigate, though they will probably not cure, the present disorders. The existing plan of appraisements, in particular, may be easily improved, by some alterations adapted to the difficulties and abuses which now occur in appraisements.

These few suggestions concerning a remedy are made merely for consideration. I have no favorite project. The resolution which I submit is purposely expressed in very general terms, in order to present the subject for consideration in its most ample scope. I shall willingly concur in any method or measure which will secure the fair and equal collection of the duties, with proper security at the same time to the private rights of the citizen.

Whatever may be the exact extent of the mischiefs which now exist, they are undoubtedly great, and some remedy is necessary. In every view in which the subject can be considered, it seems equally clear that a proper and effectual remedy must be beneficial, at once to the morals and the revenue, the merchant and the manufacturer of our own country.

When Mr. SANFORD concluded, the resolution was agreed to.

## WEDNESDAY, December 17.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Alfred M. Carter, reported a bill for the relief of the heirs of Landon Carter; and the bill was read, and passed to the second reading.

Mr. TAYLOR presented the petitions of Martin Rose and William Purcel, praying payment for horses lost, on the Tippecanoe expedition, in the year 1811, while in the service of the United States, as stated in the petitions; which were read, and severally referred to the Committee of Claims.

The Senate resumed the consideration of the motion of the 16th instant, for instructing the Committee on the Public Lands to make inquiry relative to lands in the Virginia military tract; and agreed thereto.

The Senate resumed the consideration of the motion of the 16th instant, that a committee be appointed to inquire what Legislative provision is necessary to be made for ascertaining and establishing the northern boundary line of the State of Ohio; and agreed thereto; and Messrs. MORROW, TALBOT, TAYLOR, KING, and NOBLE, were appointed the committee.

The resolution directing a distribution of certain laws among the members of the 15th Congress, was read a third time, and amended by unanimous consent, and passed.

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The resolution authorizing the distribution of certain public documents, was read a third time, and passed.

THURSDAY, December 18.

Mr. GOLDSBOROUGH presented the memorial of the representatives of the yearly meeting of the religious Society of Friends, held in Baltimore, praying some further provision by law for suppressing a traffic in negroes and people of color, from the Middle to the Southern States, as represented in the memorial; which was read, and referred to a select committee, to consist of five members, to consider and report thereon by bill or otherwise; and Messrs. GOLDSBOROUGH, HORSBY, SMITH, BURRILL, and EPPES, were appointed the committee.

Mr. FISK presented the petition of John Rice of Barre, Vermont, who states he served as a private soldier in the 4th regiment United States infantry for the term of five years, and praying a bounty in land, for reasons stated in the petition; which was read, and referred to the Committee on Military Affairs.

Mr. STOKES presented the petition of John Hibbert and others, late soldiers in the 43d regiment of the United States Army, praying bounties in land, for reasons stated in the petition; which was read, and referred to the Committee on Military Affairs.

The bill for the relief of the heirs of Landon Carter was read the second time, and considered as in Committee of the Whole; and no amendment having been made thereto, the PRESIDENT reported it to the House, and the bill was ordered to be engrossed, and read a third time.

The following Message was received from the PRESIDENT OF THE UNITED STATES:  
*To the Senate of the United States:*

In compliance with the resolution of the Senate, of the 11th of this month, I transmit, for the information of the Senate, a report from the Secretary of the Treasury, relating to the progress made in surveying the several tracts of military bounty lands, appropriated by Congress for the late army of the United States, and the time at which such survey will probably be completed.

JAMES MONROE.

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The Message and report therein mentioned were read.

Mr. RUGGLES submitted the following motion for consideration:

*Resolved*, That the committee on so much of the President's Message as relates to roads and canals be instructed to inquire into the expediency of providing, by law, for the appointment of commissioners to survey, lay out, and mark, a road from the west bank of the Ohio river, opposite the point where the Cumberland road strikes the same, through St. Clairsville and Zanesville, to Columbus; from thence to the west line of the State of Ohio, in a direction to St. Louis, in the Missouri Territory.

Mr. NORLE submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of establishing a land office in the eastern part of the State of Indiana.

Mr. EPPES submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of extending for a further time "An act, entitled an act, further extending the time for locating Virginia military land warrants, and for returning the surveys thereon to the General Land Office;" and also the act, entitled "An act authorizing patents to issue for lands located and surveyed by virtue of certain Virginia resolution warrants."

Mr. MORROW presented the petition of William Edwards, of Warren county, in the State of Ohio, praying compensation for certain services as a surveyor; also, the petition of John G. Stubbs, of Newport, in the State of Kentucky, praying compensation for like services, as stated in the petitions; which were read, and severally referred to the Committee of Claims.

FRIDAY, December 19.

NICHOLAS VANDYKE, from the State of Delaware, arrived the 18th instant, and attended this day.

Mr. RUGGLES presented the petition of William Farris, senior, praying compensation as a reward for his invention for propelling boats by means of wheels instead of oars, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. RUGGLES also presented the petition of Samuel Brown, praying compensation for services during the Revolutionary war, as stated in the petition; which was read, and referred to the Committee of Claims.

On motion, by Mr. SMITH, that John Haslett have leave to withdraw his petition, it was determined in the negative.

Mr. WILLIAMS, of Mississippi, called up the memorial of the General Assembly of the State of Louisiana, relative to the land claims of Florida, presented at the last session, and it was referred to the Committee on the Public Lands.

Mr. TAYLOR presented the memorial of the Board of Trustees of the Vincennes University, representing the situation of the institution, and suggesting the propriety of selling the balance of the land in the seminary township, reserved by the act of March, 1804, and vesting the amount in bank stock, for the use of the University, as stated in the memorial; which was read, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the motion of the 18th instant, for instructing a committee to inquire into the expediency of appointing commissioners to survey, lay out, and mark, a certain road, which, having been amended, was agreed to as follows:

*Resolved*, That the committee on so much of the President's Message as relates to roads, inland navigation, and seminaries of learning, be

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instructed to inquire into the expediency of providing by law for the appointment of commissioners to survey, lay out, and mark, a road from the west bank of the Ohio River, opposite the point where the Cumberland road strikes the same, through St. Clairsville, and Zanesville, to Columbus; from thence to the west line of the State of Ohio, in a direction to St. Louis, in the Missouri Territory.

The Senate resumed the consideration of the motion of the 18th instant, for instructing the Committee on Public Lands to inquire into the expediency of establishing a land office in the eastern part of the State of Indiana; and agreed thereto.

The Senate resumed the consideration of the motion of the 18th instant, for instructing the Committee on Public Lands to inquire into the expediency of extending, for a further time, certain acts, in relation to Virginia military and resolution land warrants; and agreed thereto.

The bill for the relief of the heirs of Landon Carter was read a third time, and passed.

The Senate adjourned to Monday morning.

## MONDAY, December 22.

Mr. SANFORD presented the petition of Edmund Dana, praying remuneration for losses sustained by furnishing uniform clothing to the United States troops during the late war, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. STORER presented the petition of Joseph Storer, collector of the revenue for the district of Kennebunk, praying an increase of compensation, for reasons stated in the petition; which was read, and referred to the Committee of Claims.

The PRESIDENT communicated the petition of William Esenbeck, messenger at the Treasury Department, praying compensation for the loss of personal property, which was in the residence provided for him by the Government, and destroyed by the conflagration of the Treasury Department in August, 1814, as stated in the petition; which was read, and referred to the Committee on Finance.

Mr. SANFORD presented the petition of a number of the inhabitants of Oneida county, State of New York, in favor of encouraging manufactures; and the petition was read, and referred to the Committee on Commerce and Manufactures.

Mr. ROBERTS presented the petition of Thomas Robinson and others, a committee in behalf of the surviving officers of the Pennsylvania line of the Revolutionary Army, praying an equitable settlement of the half pay for life, as promised by the resolves of Congress, as stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. OTIS presented the petition of John Peters and Sabin Pond, of Boston, Massachusetts, praying a reimbursement of money arising from a certain brig and cargo, forfeited for a violation of the revenue laws, for reasons stated in the petition;

which was read, and referred to the Secretary of the Treasury.

Mr. NOBLE submitted the following motion for consideration:

*Resolved*, That the Committee on Finance be instructed to inquire what legislative provisions are necessary, if any, to authorize the payment of the three per cent. now due, or that which may hereafter be due, to the State of Indiana, arising from the net proceeds of the sales of the United States' lands lying within the said State, in pursuance of an act of Congress, of the 19th of April, 1816.

Mr. MORRIL gave notice that he should, tomorrow, ask leave to introduce a resolution directing the Commissioner of the General Land Office, to furnish each soldier who may receive a patent, with a description of the quality of his lot as minuted in the field notes of the surveyor.

Mr. DICKERSON gave notice that he should, tomorrow, ask leave to introduce a resolution proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office, and for designating the western boundary line of the Virginia military tract; and the bill was read, and passed to the second reading.

## TUESDAY, December 23.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Noah Miller," in which they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

Mr. SMITH presented the memorial of Nathaniel Russel and others, merchants and underwriters of Charleston, South Carolina, praying indemnification for French spoiliations in the year 1796, as stated in the memorial; which was read, and referred to the Committee of Claims.

Mr. DAGGETT presented the petition of the Chamber of Commerce of the city of Philadelphia, praying the passage of an act to establish a uniform system of bankruptcy throughout the United States, for reasons stated in the petition; which was read, and referred to the Committee on the Judiciary.

Mr. WILLIAMS, of Mississippi, presented the representation and protest of certain members of the Legislature of the State of Louisiana against the memorial of said Legislature, respecting titles to lands in the Florida district; which was read, and referred to the Committee on Public Lands, to consider and report thereon.

Mr. MORROW presented the petition of John Baptist Valle, of St. Genevieve, praying to be confirmed in his title to a tract of land in the

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Missouri Territory, which was granted to him by the Spanish Governor, as stated in the petition; which was read, and referred to the last mentioned committee, to consider and report thereon.

Mr. MORROW also presented the petition of John T. Hall and others, proprietors of land, lying between the Great and Little Miami rivers, situated in the tract purchased from the United States by John C. Symmes, praying relief in consideration of a defect in the title thereof, as stated in the petition; which was read, and referred to the same committee, to consider and report thereon.

Mr. SANFORD presented the memorial of M. Clarkson, President of the American Bible Society, praying the privilege of importing paper, free of duty, for reasons stated in the memorial; which was read, and referred to the Committee on Finance.

Mr. ROBERTS presented the memorial of the Philadelphia Bible Society, praying the remission of all duties on stereotype plates already imported, and that they may be permitted to import the sacred scriptures in foreign languages, free of duty, for reasons stated in the memorial; which was read, and referred to the same committee, to consider and report thereon.

Mr. WILLIAMS, of Mississippi, presented the petition of I. P. Kennedy and others, inhabitants of Mobile, praying the demolition of Fort Charlotte in said town, and that the land on which it stands be sold, for reasons stated in the petition; which was read, and referred to the Secretary for the Department of War, to consider and report thereon to the Senate.

Mr. SMITH submitted the following motion for consideration:

*Resolved*, That the Secretary of the Treasury be directed to lay before the Senate a statement of the amount of duties on imported salt, during the years 1815, 1816, and 1817, as far as the returns to the Treasury will permit. Also, a statement, for the same years, of the amount of the allowances and drawbacks paid to vessels employed in the fisheries, and on pickled fish exported.

Mr. DICKERSON laid before the Senate the proceedings of the Legislature of the State of New Jersey, in relation to an amendment to the Constitution of the United States, and instructions to their Senators in Congress, to endeavor to obtain the said amendment, which were read; and, laid on file.

Whereupon, Mr. DICKERSON, agreeably to notice given yesterday, and in obedience to instructions received from the Legislature of New Jersey, asked and obtained leave to introduce a resolution, proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States; and the resolution was read, and passed to the second reading.

Agreeably to notice given yesterday, Mr. MORRIS asked and obtained leave to introduce the following resolution; which was read, and passed to the second reading:

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*Resolved*, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the General Land Office furnish each soldier, who may receive a patent for military bounty land, a description of the quality of his lot, as minuted in the field notes of the surveyor.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the bill, entitled "An act supplementary to the act establishing a Mint, and the act concerning the Mint," reported it with amendments; which were read.

Agreeably to notice given, Mr. CAMPBELL asked and obtained leave to introduce a bill to authorize the State of Tennessee to issue grants, and perfect titles on certain entries, and locations of land therein described; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 22d instant, for instructing the Committee on Finance relative to the payment of the three per cent. to the State of Indiana; and agreed thereto.

The bill to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office, and for designating the western boundary line of the Virginia military tract, was read the second time, and considered as in Committee of the Whole; and, no amendment having been made thereto, the PRESIDENT reported the bill to the House, and the further consideration thereof was postponed until to-morrow.

WEDNESDAY, December 24.

A message from the House of Representatives informed the Senate that the House have passed a resolution, providing for the temporary adjournment of Congress; in which they request the concurrence of the Senate.

The resolution last mentioned was read three several times, by unanimous consent, and passed.

Mr. WILLIAMS, of Mississippi, presented the petition of Joseph P. Kennedy, and others, of the town and county of Mobile, praying to be confirmed in certain lands, as stated in the petition; which was read, and referred to the Committee on Public Land Claims.

Mr. WILLIAMS, of Mississippi, also presented the petition of Joseph Bullen, of Jefferson county, and State of Mississippi, praying the right of preemption to a certain tract of land, as stated in the petition; which was read, and referred to the same committee, to consider and report thereon.

Mr. ROBERTS, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Silas Willard; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 23d instant, directing the Secretary of the Treasury to communicate information relative to duties on salt, and agreed thereto.

The bill, entitled "An act for the relief of Noah Miller," was read the second time, and referred to the Committee on Pensions.

The resolution to direct the Commissioner of

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the General Land Office to furnish each soldier, who may receive a patent for military bounty land, with a description of the quality of his lot, was read the second time, and referred to the Committee on Public Land Claims.

The resolution, proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States, was read the second time, and referred to a select committee, to consist of five members, to consider and report thereon; and Messrs. DICKERSON, KING, DAGGETT, MACON, and STOKES, were appointed the committee.

The bill to authorize the State of Tennessee to issue grants, and perfect titles, on certain entries and locations of lands therein described, was read the second time.

The Senate resumed the consideration of the bill to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office, and for designating the western boundary of the Virginia military tract; and, on motion by Mr. ERPE, the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act supplementary to the act establishing the Mint, and the act concerning the Mint;" together with the amendments reported thereto by the Committee on Finance; and, the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and, the amendments having been concurred in, the amendments were ordered to be engrossed, and the bill read a third time as amended.

## MONDAY, December 29.

The PRESIDENT communicated a letter from Andrew Allen, of New York, presenting to the Senate a copy of the first Message of President Monroe, printed on gilt leather, after a new and improved method, for which he has recently obtained a patent; and the letter was read.

Mr. RUGGLES presented the petition of John Brown, sen., of the county of Belmont, in the State of Ohio, praying to be released from the payment of duties on certain stills, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. MORRIL presented the petition of John Davis, of the town of Warner, in the State of New Hampshire, representing that he served as a soldier in the Revolutionary war, and praying compensation for his services; and the petition was read, and referred to the Committee of Claims.

Mr. NORRIS presented the memorial of Samuel Jelley, and others, inhabitants of the town "Rising Sun," praying a post route through the same, for reasons stated in the memorial; which was read, and referred to the Committee on Post Offices and Post Roads.

Mr. WILSON presented the petition of Henry

Jones, who served as a soldier in the late war, praying a pension, for reasons stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. CAMPBELL presented the memorial of the Legislature of the State of Tennessee, on the subject of unsatisfied claims for land in that State, derived under the authority of the State of North Carolina; and the memorial was read, and ordered to be printed for the use of the Senate.

Mr. TAIT submitted the following motion for consideration:

*Resolved*, That the Committee on the Militia be instructed to inquire into the expediency of augmenting the pay of the militia, when called into the service of the United States.

The bill for the relief of Silas Willard was read the second time.

The Senate resumed the consideration of the bill to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office, and for designating the western boundary line of the Virginia military tract; and, no amendment having been made thereto, the bill was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize the State of Tennessee to issue grants, and perfect titles, on certain entries and locations of lands therein described; and, on motion by Mr. MORROW, it was referred to a select committee, to consist of five members, to consider and report thereon; and Messrs. CAMPBELL, STOKES, MACON, WILLIAMS, of Tennessee, and MORROW, were appointed the committee.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with a resolution of the Senate of the 16th of this month, requesting information touching the execution of so much of the first article of the Treaty of Ghent, as relates to the restitution of slaves, which has not heretofore been communicated, I now transmit a report of the Secretary of State on that subject.

JAMES MONROE.

DEPARTMENT OF STATE,

December 24, 1817.

The Secretary of State, to whom has been referred the resolution of the Senate of the 16th instant, requesting information touching the execution of so much of the first article of the Treaty of Ghent as relates to the restitution of slaves, which has not heretofore been communicated, has the honor to report to the President, that no answer has been received from the British Government to the proposal made by order of the late President, on the 17th of September, 1816, that the question upon the different construction given by the respective Governments to that article, should be referred to the decision of some friendly sovereign; that the late Minister of the United States in England, before his departure from London, renewed the request for an answer, and that the present Minister at the same Court has been instructed to invite again the attention of the British Government to the subject. All which is respectfully submitted.

JOHN Q. ADAMS.

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Silas Willard.

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The Message, and report therein mentioned, were read.

The amendments to the bill, entitled "An act supplementary to the act establishing the Mint, and the act concerning the Mint," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed with amendments.

TUESDAY, December 30.

The PRESIDENT communicated a report of the Secretary of the Treasury, showing the amount of duty which accrued on salt imported during the years 1815 and 1816, and from the 1st January to the 30th June, 1817, together with the amount paid for bounty on pickled fish exported, and for allowance to vessels employed in the fisheries during the same period, made in obedience to a resolution of the Senate of the 24th instant; and the report was read. Whereupon, Mr. SMITH submitted the following motion for consideration:

*Resolved*, That "a statement from the Treasury Department, showing the amount of duty which accrued on salt imported during the years 1815 and 1816, and from the 1st January to the 30th June, 1817, together with the amount paid for bounty on pickled fish exported, and for allowances to vessels employed in the fisheries during the same period," be referred to the Committee on Finance, with instructions to inquire into the expediency of repealing the law laying that duty.

Mr. WILSON presented the petition of Thomas Patten, praying a pension, for reasons stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. RUGGLES presented the petition of Alexander Macomb, praying to be confirmed in his title to certain islands situate at the mouth of the river Detroit, for reasons stated in the petition; which was read, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the motion of the 29th instant, for instructing the Committee on the Militia to inquire into the expediency of augmenting the pay of the militia when called into the service of the United States; and agreed thereto.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the bill, entitled "An act for the relief of Noah Miller," reported it without amendment.

The bill to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office, and for designating the western boundary line of the Virginia military tract, was read a third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to remit the duty on a painting presented to the Pennsylvania Hospital;" a bill entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army;" a bill entitled "An act for the relief of Samuel Aikman;" a bill entitled "An act for

the relief of Joel Earwood;" and a bill entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri;" in which they request the concurrence of the Senate.

The five bills last mentioned were read, and severally passed to the second reading.

Mr. DAGGETT submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate a statement of the proceedings which may have been had under the act of Congress, passed the 3d March, 1817, entitled "An act to set apart and dispose of certain public lands for the encouragement of the cultivation of the vine and olive." Also, that the President be requested to give to the Senate such information as he may possess, in relation to any location of land, or settlement made by any individual or individuals, under the aforesaid act.

Mr. ROBERTS, from the Committee on Claims, reported a bill for the relief of William Edwards and John G. Stubbs, (compensating them for their services in surveying lands in the Territory of Illinois;) which was read, and ordered to a second reading.

SILAS WILLARD.

The Senate resumed the consideration of the bill for the relief of Silas Willard.

[Some discussion took place on this bill, from which it appeared that the case was this: that the petitioner was the bail of John M. Willard, who was indicted in the circuit court of Vermont for trading with the enemy in Canada during the late war; that the accused, flying the country, and not standing a trial, his bond was forfeited, and his bail became responsible. He prays relief; and his petition is supported by good evidence that the bail required was excessive; that he has since been reduced to poverty, and is a man of the fairest general character.]

It was not denied that the petitioner merited relief, but it being suggested by Mr. SANFORD that the President was already authorized by law, on the recommendation of the Secretary of the Treasury, to extend relief to insolvent debtors to the United States, in certain cases, and that legislation in this case was unnecessary, the bill was, with the consent of Mr. ROBERTS, the chairman of the committee who reported it, postponed to Friday next.

WEDNESDAY, December 31.

Mr. TROUP presented the petition of Joseph Cumming, administrator of James Murren, deceased; and also the petition of Samuel Parker, executor of George Parker, deceased; praying indemnification for claims to land in the Yazoo purchase, surrendered to the State of Georgia, as stated in the petitions; which were read, and severally referred to the Committee of Claims.

Mr. KING presented a memorial of Richard Varick and others, surviving officers of the Revolutionary Army, representing their services, the engagements under which those services were



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performed, and the manner in which those engagements have been attempted to be fulfilled, and praying that provision may be made by law for ascertaining and funding the balances which may be due to them; and the memorial was read, and referred to the Committee on Military Affairs.

Mr. ERRES presented the petition of the Mechanic Relief Society of Alexandria, praying an act of incorporation, for reasons stated in the petition; which was read, and referred to the Committee on the District of Columbia.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Winslow and Henry Lewis," in which they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

On motion by Mr. WILSON, it was read the second time by unanimous consent, and referred to the Committee of Claims.

Mr. BURRILL submitted the following motion for consideration:

*Resolved*, That the committee to whom was referred the petition of the committee of the yearly meeting of the Society of Friends at Baltimore, be instructed to inquire into the expediency of so amending the laws of the United States, on the subject of the African slave trade, as more effectually to prevent said trade from being carried on by citizens of the United States under foreign flags, and also into the expediency of the United States taking measures in concert with other nations for the entire abolition of said trade.

Mr. BURRILL also submitted the following motion for consideration:

*Resolved*, That the Committee on the District of Columbia be instructed to inquire into the expediency of commencing the erection of the centre building of the Capitol, and of making provision for the speedy completion thereof. That the said committee be also instructed to inquire whether suitable apartments can be had in the Capitol for the reception and accommodation of the Library of Congress; and in case such apartments cannot be had there, to inquire into the expediency of purchasing or erecting a convenient building for the Library.

Mr. TAIT gave notice that he should on Friday next ask leave to bring in a bill in addition to an act making appropriation for repairing certain roads therein described.

Mr. SANFORD gave notice that he would, on Friday next, ask leave to offer a joint resolution, directing the publication of the journal and proceedings of the Convention which formed the present Constitution of the United States, now remaining in the office of the Secretary of State.

The Senate resumed the consideration of the motion of the 30th instant, for referring to the Committee on Finance the report of the Secretary of the Treasury in relation to the duty on salt, with instructions to inquire into the expediency of repealing the law laying that duty; and agreed thereto.

The Senate resumed the consideration of the motion of the 30th instant, requesting information of the proceedings which may have been had

under the act, entitled "An act to set apart and dispose of certain public lands for the encouragement of the cultivation of the vine and olive;" which having been amended, was agreed to, as follows:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate, a statement of the proceedings which may have been had under the act of Congress, passed the third of March, 1817, entitled "An act to set apart and dispose of certain public lands, for the encouragement of the cultivation of the vine and olive."

Also, that the President be requested, to give to the Senate, such information as he may possess, in relation to any occupation of land, or settlement made by any individual or individuals, under the aforesaid act.

The bill, entitled "An act to remit the duty on a painting presented the Pennsylvania Hospital," was read the second time, and referred to the Committee on Finance.

The bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," was read the second time, and referred to the Committee on Military Affairs.

The bill, entitled "An act for the relief of Samuel Aikman," was read the second time, and referred to the Committee on Public Lands.

The bill, entitled "An act for the relief of Joel Earwood," was read the second time, and referred to the same committee.

The bill, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri," was read the second time, and referred to the same committee.

The bill, for the relief of William Edwards and John G. Stubbs, was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Noah Miller;" and the further consideration thereof was postponed until Monday next.

On motion of Mr. NOBLE, the Committee on Pensions, to whom was referred so much of the Message of the President of the United States as relates to the surviving officers and soldiers of our Revolutionary Army, were discharged from the further consideration thereof, and it was referred to the Committee on Military Affairs.

The Senate adjourned to Friday morning.

FRIDAY, January 2, 1818.

The PRESIDENT communicated the report of the Secretary of the Treasury, on the petition of John Peters and Sabin Pond, of Boston, and the report was read.

On motion of Mr. CAMPBELL, the Committee on Finance, to whom was referred on the 22d ultimo, the petition of William Esenbeck, were discharged from the further consideration thereof; and it was referred to the Committee of Claims.

On motion of Mr. ASHMUN, the petition of John Peters and Sabin Pond, together with the



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*African Slave Trade.*

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report thereon of the Secretary of the Treasury, this day communicated, was referred to the Committee of Claims.

Mr. LEAKE submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of amending the several laws relative to the sale of public lands.

Mr. SANFORD asked and obtained leave to bring in a resolution, directing the publication of the journal and proceedings of the Convention which formed the present Constitution of the United States, now remaining in the office of the Secretary of State; and the resolution was read the first and second time by unanimous consent; and referred to a select committee, to consist of five members, to consider and report thereon; and Mr. SANFORD, Mr. KING, Mr. MACON, Mr. EPPES, and Mr. TAIT were appointed the committee.

Mr. TAIT asked and obtained leave to bring in a bill, in addition to "An act making appropriation for repairing certain roads therein described;" and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 31st ultimo, for instructing the Committee on the District of Columbia to inquire into the expediency of erecting the centre building of the Capitol, and of providing suitable apartments for the accommodation of the Library of Congress; and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Silas Willard, and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of William Edwards and John G. Stubbs, and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments having been concurred in, the bill was ordered to be engrossed, and read a third time.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Weaver Bennett, made a report, together with the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition.

The report and resolution were read.

Mr. ROBERTS, from the same committee, to whom was referred the petition of Haffield White, also made a report, together with the following resolution:

*Resolved*, That a bill be reported allowing Haffield White the sum of two hundred and fifty dollars, in full of all his claims on the United States.

The report and resolution were read.

#### AFRICAN SLAVE TRADE.

The Senate resumed the consideration of the motion of the 31st ultimo, for instructing the committee to whom was referred the petition of the committee of the yearly meeting of the Soci-

ety of Friends, at Baltimore, on the subject of the African slave trade; and the resolution being read—

Mr. TROUP rose to object to the last clause of the resolution, which contemplated a concert with foreign nations. He thought this a most extraordinary proposition, and asserted that, according to his apprehension, no measure could be adopted more replete with danger to the welfare, to the very existence of this country, than a formal coalition, for any purposes, with any foreign nation whatever. It was a policy, a resort to which ought always to be resisted, and he hoped would be resisted with a firmness not to be overcome. The object of the first part of the proposition, for making our laws against the slave trade more perfect and more effectual, Mr. T. approved, and was willing to co-operate in it. He was ready to go as far as any one, in enforcing, within our own jurisdiction, the abolition of the African slave trade. Within our land line, or water line, even on the high seas, he was willing to enforce our own laws on the subject; but to direct the President to enter into any compact or concert for this object with any foreign nation or individuals, was a step he would never consent to. He could not separate from foreign alliances the idea of foreign politics and foreign wars; and the proposed measure he should view as the commencement of a system of foreign connexions tending to foreign alliances, to which Mr. T. expressed great repugnance. Unless, therefore, the propositions embraced by the resolution were separated, he should be obliged to vote against it.

Mr. BURRILL was pleased, he said, to find that Mr. TROUP had no objection to the main object the resolution had in view, of putting an entire stop to the African slave trade—on this point, he believed, there was no diversity of opinion throughout the country. Mr. B. regretted, however, that such a view had been taken of the concert with other nations proposed to effect the object; because it was only by such concert and co-operation that the slave trade could be abolished. Mr. B. entirely agreed as to the impolicy of foreign alliances; and if the general objection to them applied to the proposition he had submitted, he admitted it would be a sound and substantial one; but he could not view the proposed concert in this light, nor could he conceive that any such disastrous consequences would follow it as had been anticipated by the gentleman from Georgia; that apprehension, he thought, was altogether groundless. Nor was the principle of the proposed concert, Mr. B. said, a novelty in this country. By referring to the Treaty of Ghent, it would be found that our Ministers had either made or received overtures on this very subject, and a provision was in consequence inserted in the Treaty. The concert had been considered as indispensable to bring about the entire abolition of the slave trade; and, Mr. B. said, it had been found impossible to put an entire stop to it without a co-operation among the nations prohibiting it; for, no matter how many

nations prohibit the trade, if one or two are allowed to carry it on, the evil will still exist.

Mr. TROUP replied, that the proposed concert for abolishing a particular traffic on the high seas presupposed resistance, and resistance was to be repressed by the united means of the nations entering into the compact. This, certainly, Mr. T. said, was one step towards, and might be the prelude to, alliances with foreign Powers. Besides, he said, this was not one of those traffics proscribed by the law of nations, though prohibited by our statutes; and he doubted the expediency of such a combination to put down a trade which was thus permitted. If motives of humanity are urged in favor of this measure, let us, said Mr. T., begin at the fountain head. If the policy of this country is to be changed; if the well-remembered parting advice of a wise and good man is to be departed from, and we are to commence a system of "entangling alliances," let us look for some objects worthy of the change; let us aim at the abolition of impressment, and free our seamen from that odious tyranny; or let us enter into the cause of South American emancipation; let us not enter, for the first time, upon a system so fraught with danger, without some such great justifiable motive; without the certainty of accomplishing some object of an importance corresponding with the sacrifice we are to make.

Mr. KING, in the outset of his remarks, adverted to the delicacy of this question; and said that if, in approaching it, he could discover any danger of the present proposition's leading to that kind of connexion which was apprehended by Mr. TROUP, no one would more earnestly deprecate it than himself. But, he said, it was the boast of this nation that it had the reputation of having been the first to begin the abolition of the African slave trade; the Constitutional provision having reference to this subject, certainly looked forward to a time when this country would be ready to use its best endeavors to put down this iniquitous traffic; and, he might add, there was no provision in the Constitution which had been looked to with more general approbation than that one. The example of this country had excited the emulation of other nations, and all of them having any connexion with this trade, except two, had come into the measures for its abolition. Those two had taken time for further consideration, and so long as their decision was suspended, the regulations of other nations would be inefficient; an entire abolition of the traffic in slaves would never be effected until all united to suppress it. It seems to me, said Mr. K., that we are bound by our own principles, and the promise we have held out, to go a little further, if we can, to give effect to what we have undertaken. It was not important, he thought, in doing so, whether the necessary measures commenced with us, or were entered into at the invitation of others. So long, however, he said, as Spain and Portugal permitted this trade, and so long as any of our own people, to their disgrace, continued to pursue it under those flags, it was necessary to

the honor and the interest of this country to concur in any proper measures for its suppression. He could not perceive, he said, how such a measure as this motion looked to, could lead to any such entangling connexion as had been apprehended. What was proposed was an honest and moral concert to put an end to a traffic which is an abomination on the earth. He had no idea of its authorizing the slightest interference with the internal affairs of other nations, or of allowing them to interfere in ours; it could, in his opinion, only redound still more to the honor of our country. An arrangement of the nature suggested, he thought, might be entered into without any great inconvenience, and without any encouragement to that kind of connexion of interests which had been very justly deprecated; and it was, he said, if practicable, a measure which was demanded by a regard for the morals of the country, which our religion itself called for. Nor did he think, Mr. K. said, that it was a sound objection, though there was some force in it, that the proposition originated in this branch of the Government, and not with the Executive. Any branch of the Government, he thought, might express an opinion on any national question; the construction of legislative powers was not so strict as to forbid it; in proof of which, he adverted to the practice in England, whence, Mr. K. said, we took many of our political ideas, where the Parliament often expressed its opinion on subjects of public interest.

Mr. BURRILL made some additional remarks, in reply to Mr. TROUP, and said, that if all nations agreed in prohibiting the traffic, it might not be necessary to enter into any compact on the subject—it would in time, by common consent, become a part of the law of nations. What had been done, he said, to put down the practice, had not repressed and scarcely mitigated the evil. The diminution of the number of nations which still permitted the trade had made the objects of it very cheap on the coast of Africa, and the consequence was that great numbers of the wretched beings were crowded into small vessels, and the evil and cruelty were rather increased than diminished. To cure the evil, the prohibition must be absolute and universal; while it was partial, it must be ineffectual.

Mr. CAMPBELL, without being prepared for a discussion of the subject, said he could not at present see the propriety of adopting a resolution from which no good could result; for we, as legislators, said he, cannot enter into any contract with foreign nations. The Executive only, he said, was the proper branch of the Government to form such an arrangement, and if it had been necessary, he presumed the Executive would have done so; but it would be useless, and therefore improper, for the Senate to act on the subject, because they could not act with effect. It had been remarked, however, that the expression of an opinion by the Senate, might be useful, and that this course was a common practice with the British Parliament. It was common, he knew, for Parliament to address humble petitions to the

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King that he would cause certain measures to be executed; but between that practice and ours there was no analogy. When this Congress acted, Mr. C. said, they acted effectually, and did not and ought not ever to undertake what they have not power to carry into effect. There was, perhaps, but a single instance of a departure from this practice in the Senate, when, on one occasion, they recommended to the Executive to send a Minister to a foreign Government. That measure he always disapproved, and he was, on principle, averse to originating any proposition in the Senate, which their Constitutional powers did not enable them to consummate. Besides this, Mr. C. declared his unwillingness to enter into any compact whatever with any foreign Power to regulate our own conduct, or to carry our laws into effect. Two nations had thought proper still to permit the trade alluded to. What compact, said Mr. C., are we to form with others, to induce these nations to forbid it? Are we to require Spain and Portugal to give up this trade? Are we to unite with France and England to urge them to give it up? And, should they yet refuse, are we to attempt to force them by arms to do so? Are we, he asked, prepared to risk a war for this object? He confessed he could not see to what other result the proposition tended.

Mr. BURRILL again briefly addressed the Senate, and read to it the tenth article of the Treaty of Ghent, to show that the proposition was not a novelty, and that the United States were specifically pledged to Great Britain to use "their best endeavors" to abolish the trade.

Mr. TROUP replied that, in the very provision referred to, the Executive had cautiously and pointedly abstained from compromising the country to any connexion for this object—the article of the treaty stipulating simply that each party would, with good faith, carry into effect its own statutes on the subject of this trade. The article, in short, engaged the parties to do that which, Mr. T. said, would have been done by the United States without any such stipulation.

Mr. KING rose to enter his dissent to the construction given by Mr. TROUP to the article of the Treaty of Ghent which had been quoted. Surely, he said, it would be much more offensive to admit that we would enter into a stipulation with a foreign Government to carry our own statutes into execution within our own territory, where our power is complete, than that we should engage in a concert to suppress a particular trade on the high seas. He would enter into no such stipulation with any Power on earth, even if it had been deemed necessary; but in this case it was not. He thought the true intention of the article was, that the parties would use their joint endeavors to put an end to the traffic. [Mr. K. then proceeded to remark on the circumstances of the case, which he presumed Mr. CAMPBELL had referred to, to which the Senate had volunteered its opinion on a certain subject to the Executive; but it afterwards appeared, on explanation, that Mr. K. and Mr. C. had not referred to the same case. Lest, however, injustice should

be done to Mr. K.'s views of that subject, they are omitted.]

Mr. CAMPBELL, in conclusion, observed, respecting the stipulation of the Treaty of Ghent, that he did not think the provision was intended to oblige either party to carry its own statutes into execution. He presumed it was introduced merely because the subject was at that time fresh in Great Britain, and that country felt anxious to have it introduced into the treaty to give to that instrument some popularity. There was nothing additional to be done in pursuance of the provision, and he viewed it simply as an expression of the pre-existing disposition of the parties to put down the trade entirely.

A motion having been made by Mr. CAMPBELL to postpone the resolution for further consideration, it was postponed to Monday without objection.

The Senate adjourned to Monday morning.

#### MONDAY, January 5.

WILLIAM HUNTER, from the State of Rhode Island and Providence Plantations, arrived the 2d instant, and attended this day.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of John Anderson; and a bill, entitled "An act in addition to an act, entitled 'An act for the relief of John Thompson;' in which bills they request the concurrence of the Senate.

The bills last mentioned were read, and severally passed to the second reading.

On motion by Mr. WILSON, the bill entitled "An act for the relief of John Anderson," was read the second time, by unanimous consent, and referred to the Committee of Claims.

The bill, entitled "An act in addition to an act, entitled 'An act for the relief of John Thompson,'" was also read the second time, by unanimous consent, on motion by Mr. WILSON; and referred to the same committee.

The PRESIDENT communicated a letter from the Secretary for the Department of War, transmitting a copy of the Army Register of this date, for each member, conformably to a resolution of the Senate of December 15th, 1815; and the letter was read.

The PRESIDENT also communicated a report of the Secretary for the same department, comprehending statements of the expenditure and application of all such sums of money as have been drawn from the Treasury by the Secretary of War, from the 1st of October, 1816, to the 30th September, 1817, inclusive, conformably to "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," passed the 3d March, 1809; and the report was read.

He also communicated another report of the Secretary for the same department, comprehending an account of moneys transferred during the recess of Congress, from one specific appropriation to another, by authority of the President of

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the United States, in the year 1817, showing all its application, agreeably to the first section of the aforesaid act; and the report was read.

Mr. STORER called up the memorial of the merchants of Portsmouth, New Hampshire, and its vicinity, praying compensation for the spoiliations of French cruisers, presented at the last session; and the memorial was read, and referred to the Committee of Claims.

Mr. ASHMON presented the petition of sundry inhabitants of the towns of Sheffield, Great Barrington, and West Stockbridge, in the Commonwealth of Massachusetts, and the towns of Canaan, Chatham and Nassau, in the State of New York, praying a post route, for reasons stated in the petition; which was read, and referred to the Committee on the Post Office and Post Roads.

The Senate resumed the consideration of the motion of the 31st December, for instructing the committee, to whom was referred the petition of the committee of the yearly meeting of the Society of Friends, at Baltimore, to inquire into the expediency of amending the laws on the subject of the African slave trade; and the further consideration thereof was postponed to Monday next.

The Senate resumed the consideration of the motion of the 2d instant, for instructing the Committee on Public Lands to inquire into the expediency of amending the several laws relative to the sale of public lands, and agreed thereto.

The Senate resumed the consideration of the report of the Committee of Claims on the petition of Hasfield White; and, on the question to agree to the resolution, reported as follows:

"That a bill be reported, allowing Hasfield White the sum of two hundred and fifty dollars, in full of all his claims on the United States."

It was determined in the negative.

The Senate resumed the consideration of the report of the Committee of Claims on the petition of Weaver Bennet, and the further consideration thereof was postponed to the first Monday in February next.

The bill, entitled "An act in addition to 'An act making appropriation for repairing certain roads therein described,'" was read the second time.

The bill for the relief of William Edwards and John G. Stubbs, was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Noah Miller," and the further consideration thereof was postponed until the first Monday in February next.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of Joel Earwood," reported it with amendments, which were read.

Mr. MORROW, from the same committee, to whom was referred the bill, entitled "An act for the relief of Samuel Aikman," reported it with an amendment, which was read.

Mr. MORROW, from the same committee, to whom was referred the petition of Joel Rivers,

made report, together with the following resolution:

*Resolved*, That the prayer of the petitioner ought not to be granted.

The report and resolution were read.

Mr. CAMPBELL, from the Committee on Finance, to whom the subject was referred, reported a bill to provide for paying to the State of Indiana three per cent. of the net proceeds arising from the sales of the United States' lands within the same; and the bill was read, and passed to the second reading.

Mr. CAMPBELL, from the same committee, to whom the subject was referred, reported a bill to allow the benefit of drawback on merchandise, transported by land conveyance from Bristol to Boston, and from Boston to Bristol, in like manner as if the same were transported coastwise; and the bill was read, and passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Edmund Dana, made report, together with the following resolution:

*Resolved*, That the prayer of the petitioner is unreasonable, and ought not to be granted.

The report and resolution were read.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the bill, entitled "An act to remit the duty on a painting presented to the Pennsylvania Hospital," reported it without amendment.

Mr. SMITH presented the petition of Joseph W. Page, praying compensation for certain services in procuring evidence of the violation of the embargo law, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. EPES presented the memorial of Nathaniel Cutting, praying the grant of a tract of land in the reservation of military bounty lands, in consideration of his long and faithful public services; and the memorial was read, and referred to the Committee of Claims.

## TUESDAY, January 6.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the petition of John Rice, made report, together with the following resolution:

*Resolved*, That the prayer of the petitioner ought not to be granted.

The report and resolution were read.

Mr. RUGGLES submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be instructed to inquire whether any, and if any, what alterations are necessary in the laws relative to section No. 29, reserved for the support of the Gospel, in the Ohio Company's and John Cleve Symmes's purchase.

On motion by Mr. KING, leave was given to withdraw the memorial of the Mayor, Aldermen,

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and Common Council, of the city of New York, praying the reimbursement of certain sums advanced, and expended in the defence of the third military district, with the accompanying documents, presented at the first session of the fourteenth Congress.

On motion by Mr. MORRILL, it was agreed to reconsider the vote on passing to a third reading the bill for the relief of Silas Willard; and, on motion by Mr. FISK, that it be recommitted to the Committee of Claims, with instructions to report a bill, discharging the said Willard from his said recognizance on his paying, for the use of the United States, five hundred dollars, and the costs already arisen in said prosecution, it was determined in the negative; and, on the question, "Shall this bill be engrossed and read a third time?" it was determined in the negative.

The Senate resumed the consideration of the report of the Committee on Public Lands, on the petition of Joel Rivers, and in concurrence therewith, resolved, that the prayer of the petitioner ought not to be granted.

The Senate resumed the consideration of the report of the Committee of Claims, on the petition of Edmund Dana, and the further consideration thereof was postponed until to-morrow.

The bill to provide for paying, to the State of Indiana, three per cent. of the net proceeds arising from the sales of the United States' lands within the same, was read the second time.

The bill to allow the benefit of drawback on merchandise, transported by land conveyance from Bristol to Boston, and from Boston to Bristol, in like manner as if the same were transported coastwise, was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act in addition to 'An act making appropriation for repairing certain roads therein described,' and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Joel Earwood," together with the amendments reported thereto by the Committee on Public Lands; and the amendments having been agreed to, the PRESIDENT reported the bill to the House accordingly; and the amendments having been concurred in, they were ordered to be engrossed, and the bill was read a third time, as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Samuel Aikman," together with the amendment reported thereto by the Committee on Public Lands; and the amendment having been agreed to, the PRESIDENT reported the bill to the House accordingly; and the amendment having been concurred in, it was ordered to be engrossed, and the bill was read a third time, as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to remit the duty on a painting presented to the Pennsylvania Hospital;" and no amendment

having been made thereto, the PRESIDENT reported the bill to the House, and it was ordered to a third reading.

WEDNESDAY, January 7.

ROBERT H. GOLDSBOROUGH, from the State of Maryland, arrived the 6th instant, and resumed his seat in the Senate this day.

The PRESIDENT communicated a report of the Secretary for the Navy Department, comprehending a statement of the expenditure and application of moneys drawn from the Treasury on account of the Navy Department, from the 1st of October, 1816, to the 30th of September, 1817, inclusive, conformably to "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," passed the 3d of March, 1809; and the report was read.

He also communicated another report of the Secretary for the same Department, comprehending a statement of the contracts made by the Commissioners of the Navy during the year 1817, prepared in obedience to the act of the 3d of March, 1809, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments;" and the report was read.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill entitled "An act for the relief of Winslow and Henry Lewis," reported it with amendments; which were read.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of William Ezenbeck, made report, together with the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition.

The report and resolution were read.

Mr. TROUP presented the memorial of James Troup and others, inhabitants of the town of Darien, praying that said town may be made a port of entry, for reasons stated in the memorial; which was read, and referred to the Committee on Commerce and Manufactures.

Mr. GOLDSBOROUGH presented the petition of William Lorman and others, inhabitants of Baltimore, praying for the establishment of a system of bankruptcy, for reasons stated in the memorial; which was read, and referred to the Committee on the Judiciary.

Mr. GOLDSBOROUGH also presented the memorial of William Lorman and others, merchants, traders, and manufacturers, of the city of Baltimore, praying the adoption of some further measures to insure the collection of the revenue, paying an ad valorem duty; and also the imposition of a duty upon all sales, by auctioneers, of dry goods, except such as belong to the estates of deceased persons, or insolvents, for reasons stated in the memorial; which was read, and referred to the Committee on Commerce and Manufactures.

Mr. LACOCK presented the petition of Rees Hill, praying to be reimbursed a sum of money advanced by him, on public account, while com-

manding a detachment of militia in the service of the United States, during the year 1813, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the petition of John Hebbert and others, made report, together with the following resolution:

*Resolved*, That the petitioners have leave to withdraw their petition.

The report and resolution were read.

On motion by Mr. NOBLE, the Committee on Pensions, to whom was referred, on the 22d December, the petition of Thomas Robinson and others, a committee in behalf of the surviving officers and soldiers of the Pennsylvania line of the Revolutionary Army, were discharged from the further consideration thereof, and it was referred to the Committee on Military Affairs.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of John Brown, made report, together with the following resolution:

*Resolved*, That the prayer of the petitioner ought not to be granted.

The report and resolution were read.

Mr. TARR submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate the proceedings which may have been had under the act, entitled "An act for the gradual increase of the Navy of the United States;" specifying the number of ships put on the stocks, and of what class, and the quantity and kind of materials procured for ship-building. And also, the sums of money which may have been paid out of the fund created by said act, and for what objects; and likewise the contracts which may have been entered into, in execution of the act aforesaid, on which moneys may not yet have been advanced.

Mr. ROBERTS, from the Committee of Claims, to whom were referred the petitions of William Purcel and Martin Rose, made report, together with the following resolution:

*Resolved*, That the petitioners have leave to withdraw their petitions.

The report and resolution were read.

The Senate resumed the consideration of the motion, of the 6th instant, for instructing the Committee on Public Lands to make inquiry relative to section No. 29, in the Ohio Company's and John Cleve Symmes's purchase; and agreed thereto.

The Senate resumed the consideration of the report of the Committee of Claims on the petition of Edmund Dana; and in concurrence therewith resolved, that the prayer of the petition is unreasonable, and ought not to be granted.

The Senate resumed the consideration of the report of the Committee on Military Affairs, on the petition of John Rice; and in concurrence therewith resolved, that the prayer of the petitioner ought not to be granted.

Mr. CAMPBELL submitted the following motion for consideration:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of requiring by law the nomination of agents to Indian tribes, to be submitted to the Senate for their consent and approbation, in like manner as the nomination of other officers now are.

The amendments to the bill, entitled "An act for the relief of Joel Earwood," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The amendment to the bill, entitled "An act for the relief of Samuel Aikman," having been reported by the committee correctly engrossed, the bill was read the third time as amended, and passed.

The bill, entitled "An act to remit the duty on a painting presented to the Pennsylvania Hospital," was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for paying to the State of Indiana three per cent. of the net proceeds arising from the sales of the United States lands within the same; and no amendment having been made thereto, the PRESIDENT reported it to the House; and the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to allow the benefit of drawback on merchandise transported by land conveyance from Bristol to Boston, and from Boston to Bristol, in like manner as if the same were transported coastwise; and no amendment having been made thereto, the PRESIDENT reported it to the House; and it was ordered to be engrossed and read a third time.

### MANUFACTURES.

On motion by Mr. SANFORD, the petition of a number of the inhabitants of Oneida county, in the State of New York, in favor of encouraging manufactures, presented the 22d December, was ordered to be printed for the use of the Senate.

The memorial is as follows:

*To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:*

The petition of the inhabitants of the county of Oneida, in the State of New York, as well manufacturers as others, respectfully sheweth, that the above county contains a greater number of manufacturing establishments, of cotton and woollen, than any county in the State, there being invested in said establishments at least \$600,000.

That, although the utmost efforts have been made by the proprietors to sustain those establishments, their efforts have proved fruitless, and more than three-fourths of the factories remain necessarily closed, some of the proprietors being wholly ruined, and others struggling under the greatest embarrassments.

In this alarming situation, we beg leave to make a last appeal to the Congress of the United States. While we make this appeal, the present crisis, the extensive embarrassments in most of the great departments of industry, as well as the peculiar difficulty in affording immediate relief to manufactures, are fully



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seen and appreciated. Yet, your petitioners cannot believe that the Legislature of the Union will remain an indifferent spectator of the wide-spread ruin of their fellow-citizens, and look on and see a great branch of industry, of the utmost importance in every community, prostrated under circumstances fatal to all future attempts at revival, without a further effort for relief. We could not magnify the subject, which we now present to Congress, beyond its just merits, when we state it to be one of the utmost importance to the future interests and welfare of the United States.

Before we proceed further, and at the very threshold, we disclaim all Legislative patronage or favor to any particular class or branch of industry at the expense of the other classes in the community. We ask of Congress the adoption of no measure, for the relief of manufacturers, which is not deemed consistent with sound national policy, and the best interests of the United States at large. But if a compliance with our prayers be the dictate of wisdom, and for the public good; if our application be justified by the examples of all wise and patriotic States; if no Government of modern Europe is so shortsighted, or regardless, of its duties, as not to constantly watch over and yield a steady and protecting support to the manufacturers of the State, we humbly hope this appeal in behalf of American manufactures will not be made in vain.

That clothing for our citizens in peace, and our Army and Navy in war, are indispensable; and that the necessary supply should be independent of foreign nations, are positions that will be controverted by none. The last war afforded most lamentable proof; your soldiers, exposed to the inclemencies of a Northern climate, were at times found fighting in their ranks almost naked. It will not escape observation, that national collision and hostility are most likely to arise with that nation from whom our supplies are principally derived, and that the operations of war must be prosecuted on the ocean; hence, regular supplies being cut off, smuggling, violations of law, with all the concomitant evils experienced in the late war, are the certain consequences. The same disgraceful scenes are to be acted over again, to the deep reproach of the country. If the present manufactories are suffered to fall, the Government will look in vain for means to avert those calamities. Surrounded with many embarrassments, Government, during the war, saw fit to encourage manufacturing establishments; and those who embarked their capital, it is humbly conceived, were warranted in the expectation of such continuing support of Government as should protect their interest against that foreign rivalry and hostility which is now operating to their ruin. They had a right, as they conceive, to expect this from what the Government owed to itself, and to the independence and best interests of the country, as well as from the example of other nations in like circumstances.

In reviewing the discussions on this great question, your petitioners feel themselves justified in saying, that the question has not been at all times fairly met on its true merits. We have been constrained to witness alarm sounded, as though a new principle was to be introduced, and the country now, for the first time, taxed for the mere benefit of manufactories. What can be more untrue and unjust? We need not remind the honorable the Congress of the United States of what is known to all, that, from the first establishment of the Government, special regard has been had, in laying imposts and taxes, to the protec-

tion of domestic manufactures, by increasing the duties on imported articles coming in competition. Again, the tariff, in protecting manufactures, has been represented as taxing the farmer and planter for the benefit of the manufacturer; and, hence, attempts have been made to excite popular prejudice against the latter. We need not dwell on this topic, in showing how unjust to individuals and injurious to the country the charge is. As it respects the manufacturing districts of the United States, there is no distinct class of manufacturers, no separation of the manufacturer and farmer; it is the farmer himself who is the manufacturer; he invests his money in manufacturing stock. With the exception of a few factories, in or near the great towns, by far the greater part of manufacturing stock will be found in the hands of the farmer.

Between different districts or States, one manufacturing and the other not, a different question arises, which resolves itself into a mere equality or apportionment of taxes on the different parts of the Union; and here it will be seen, on a view of the whole system of impost and taxes, that no injustice is done, as the manufacturing districts have, and still do, contribute their full proportion to the public Treasury. Of the internal taxes, it will appear that they have paid an amount greatly beyond the numerical standard or rule of apportionment prescribed by the Constitution. The fact is not here mentioned for the purpose of complaint, but to show how fallacious it is to select the duty on a particular article, to settle the question of equality in the general apportionment of taxes. We might again confidently appeal to the tariff of imports, and ask if the duty is not greater on many other articles than on imported cloths, with the exception of certain coarse and almost useless cottons of the East Indies. This is believed to be the case with most of the specific duties, and eminently so in some instances. Were the Government to proceed much farther than is now contemplated, and bestow premiums for the encouragement of particular branches of industry, examples to justify the measure would be found in the wisest and best administered Governments. While the provision in the Constitution, prohibiting any duty on exports, favors the great staple productions of the South, it injures the domestic manufacturer, and is subversive of the great principle adopted by most nations to restrain the export of the raw material necessary in manufactures. But neither of this provision do your petitioners complain.

We hope to find excuse in the importance of the subject, for submitting to the consideration of Congress the following principles of political economy, which have been adopted by the most enlightened Governments, and are deemed not altogether inapplicable to the United States:

That the public good requires of Government to restrain, by duties, the importation of articles which may be produced at home, and to manufacture as much as possible of the raw material of the country.

That the branches of industry particularly necessary or useful to the independence of the community ought to be encouraged by Government.

That the most disadvantageous commerce, is that which exchanges the raw material for manufactured goods.

That any nation who should open its ports to all foreign importations, without a reciprocal privilege, would soon be ruined by the balance of trade.

The policy of Great Britain, in support of which, no



wars, however bloody; no expense, however enormous, are too great a sacrifice, ought never to be lost sight of by the United States. That nation assumes to manufacture for all nations, but will receive the manufactures of none. So tenacious, so jealous is she of the first dawns of manufactures elsewhere, that she binds even the hands of her own colonists. The jealousy of Parliament was excited, nearly a century ago, by the petty hat manufactory of Massachusetts; and an act of Parliament actually passed, in the reign of George the Second, prohibiting the erection of furnaces, in British America, for slitting iron.

The great Chatham, the least hostile to British America of British Ministers, in his speech in the House of Lords, on the address to the Throne, in 1770, expressed his utmost alarm at the first efforts at manufactures in America.

Mr. Brougham, a distinguished member of the British Parliament, recently declared, in his place, that it was well worth while, at the close of the late war, to incur a loss on the exportation to the United States, in order to stifle in the cradle our rising manufactures. It is in vain for any man to shut his eyes against the active rivalry and persevering hostility of British manufactures; and when the capital, the deep-rooted establishments, the improved machinery, and the skill of the British manufacturer, protected, as he always is, by the Government, are considered, it ought not to excite surprise that the American manufacturer, without the support of his Government, is found unequal to the contest. But, yielding to manufactures reasonable support in their infancy, the Government will, at no distant period, find them able to defend themselves against foreign competition and hostility, and, at the same time, make ample returns to the nation for its protecting kindness.

It was the opinion of Mr. Hamilton, former Secretary of the Treasury of the United States, as well as of Sir James Stewart, that no new manufactory can be established, in the present state of the world, without encouragement from Government.

It cost the English Parliament a struggle of forty years, commencing in the reign of Edward the Third, to get the better of the established manufactures of Flanders. It is believed that much less encouragement from Government would place the manufactures of the United States on a secure foundation. While the writers of that nation are seen to highly commend the principle of Adam Smith, that industry ought to be left to pursue its own course, without the interference of the Legislature, the Government has, at all times, and under every vicissitude, turned a deaf ear to the lesson, as though it were intended for other nations, and carried legislative regulations into every department and avenue of industry. The British statute book groans under those regulations. The policy of the Government has proved triumphant; immeasurable wealth flowed in upon the nation, giving it a power and control over other nations never before attained, and so long enjoyed by any people so inconsiderable in numbers.

But let no one imagine that a general system of manufactures is now proposed to be introduced into the United States. We would be understood as limiting our views to the manufactories already established; to save those, which have not already fallen, from the ruin which threatens them.

After all that the present manufactories can supply, there will remain to foreign importation an amount, it

is believed, equal, if not exceeding the means of the country to pay for. That importation, let it be remembered, will be mostly from a country which shuts her ports against the productions of the United States, and keeps them so, unless the necessities of her manufactories, or hunger and sedition opens them; and then the fatal suspension often proves, as the experience of the ill-fated shippers of breadstuffs, the present year, will attest, a mere decoy to ruin. Lord Sheffield, in the year 1783, declared that, except in time of war, there never was a market for American wheat in Great Britain, exceeding three or four years in the whole.

There was a time when the balance of trade, believed in both countries to be generally against the United States, was, in some degree, satisfied or counter-balanced by a favorable trade with the West Indies; but a recent change of policy in the British councils has cut off that resource, and the parent State prefers exposing her colonies to starving, rather than open her ports to American commerce.

It is obvious how much that Government presumes on its advantages over us, on the predilection of our citizens for British manufactures, and the influence of the liberal purchases in the South of the material for her cotton manufactures.

We hope to be excused in repelling the unwarrantable imputation bestowed on manufactories of woollen and cotton as being injurious to the health and morals of the community. On this point we may content ourselves with referring to the healthful sites of our factories, the spacious work-rooms, (required by the necessary machinery,) and appeal to every man who has visited a factory, for testimony against the imputation. What is the experience on the subject? Scotland manufactures not only what is required for its inhabitants, but about five millions of dollars annually in the article of cotton alone, for exportation, and yet, in both its physical and moral character, that nation sustains a high elevation. We look in vain for evidence that the arms of Scotchmen have been withered by their manufactories, nor do we recollect the field of battle in Europe where the arms of any nation were found stronger in conflict.

To swell the tide of prejudice against manufactures, it is said that unreasonable prices for goods were demanded, at the period of the late war. To reason with such objections would be a mere waste of time. We might ask what merchant, mechanic, or farmer, in any age or country, ever forbore to raise his prices according to the demand in the market? It enters into first principles. Did the importer treble his first cost on his cloths, even on smuggled goods, and does he make the charge of extortion against manufacturers? The war unhinged everything, and changed the whole order of society and course of business.

It might have been expected, that the present fallen condition of manufacturers would have soothed prejudice and disarmed hostility. With all their alleged war profits, there are now none so poor. Is it not seen, that the destruction of the present manufactories must inevitably produce the same evils of extravagant prices in the event of a future war, as were experienced in the last?

As to the imputed effect of the tariff, in enhancing the prices of imported goods, it is believed that goods were never so low as under the operation of the present duties; and, so far as competition between domes-

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tic and foreign goods has contributed to this, credit is justly due to our manufacturers.

It is objected, that the entire industry of the country may be most profitably exerted in clearing and cultivating our extended vacant lands. But what does it avail the farmer, when neither in the nation from which he purchases his goods, or elsewhere, can he find a market for his abundant crops? Besides, the diversion of labor from agriculture to manufactures, is scarcely perceptible. Five or six adults, with the aid of children, will manage a cotton manufactory, of two thousand spindles.

From the gloomy condition of the manufacturers, the mind, turning to another quarter, is cheered with the brightest prospects to others. In the more Southern States, it is believed, that the amount received, during the last year, from the export of two or three articles of agricultural produce only, exceeds forty millions of dollars.

An appeal is made to the equity, to the patriotism, of the Southern statesman: his aid and co-operation is invoked for the relief of the suffering manufacturers of the Northern and Middle States.

In conclusion, your petitioners humbly pray, that provision may be made by law, for making the duties on imported woollens and cottons permanent; for prohibiting the importation of cotton goods from beyond the Cape of Good Hope, for consumption or use in the United States, (according to the example of several European Governments;) for restraining auction sales, of goods, and for the more general introduction and use of domestic goods in the Army and Navy of the United States.

OCTOBER 1, 1817.

## THURSDAY, January 8.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act allowing compensation to the members of the Senate, members of the House of Representatives of the United States, and to the delegates of the Territories, and repealing all other laws on that subject;" a bill, entitled "An act to incorporate the Columbian Insurance Company of Alexandria;" and a resolution directing the procurement of certain laws; in which they request the concurrence of the Senate.

The two bills and resolution last mentioned were read, and severally passed to the second reading.

On motion by Mr. SANDFORD, the Committee on Commerce and Manufactures, to whom was referred the memorial of William Lorman and others, merchants, traders, and manufacturers, of the city of Baltimore, on the 7th instant, were discharged from the further consideration thereof, and it was referred to the Committee on Finance.

Mr. LACOCK presented the memorial of John Inskeep and others, merchants and underwriters of the city of Philadelphia, who have suffered from the depredations of French cruisers; representing that, by the convention of September 30, 1800, the claims of American citizens for indemnity for such captures, were relinquished in consideration of certain great political advantages in favor of the United States, whereby

they conceive the United States are bound to discharge those claims which they prevented their citizens from obtaining abroad; and praying compensation therefor; and the memorial was read, and referred to the Committee of Claims.

Mr. GOLDSBOROUGH presented the memorial of William Wilson, and others, merchants and underwriters of the city of Baltimore, on the same subject; and the memorial was read, and referred to the same committee.

Mr. ROBERTS presented the memorial of the religious society of Friends in Pennsylvania, New Jersey, Delaware, and the Eastern Shore of Maryland, praying a revision and amendment of the laws of Congress for the purpose of more effectually suppressing the kidnapping and internal traffic in the persons of color, as stated in the memorial; which was read, and referred to the committee to whom was referred, on the 18th of December, the petition of the committee of the yearly meeting of the Society of Friends, at Baltimore.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act, in addition to 'An act for the relief of John Thompson,'" reported it without amendment.

On motion by Mr. SMITH, leave was given to withdraw the documents accompanying the bill, providing an additional compensation to the circuit judge of the 6th circuit of the United States, reported at the last session.

On motion by Mr. DAGGETT, the resolution directing the procurement of certain laws, was read the second time, by unanimous consent, and considered as in Committee of the Whole, and having been amended, the PRESIDENT reported it to the House accordingly; and the amendments having been concurred in, the amendments were ordered to be engrossed, and the resolution read a third time as amended.

The bill to provide for paying to the State of Indiana three per cent. of the net proceeds, arising from the sales of the United States lands, within the same, was read a third time, and passed.

The bill to allow the benefit of drawback on merchandise transported by land conveyance from Bristol to Boston, and from Boston to Bristol, in like manner as if the same were transported coastwise, was read a third time, and passed.

The Senate resumed the consideration of the report of the Committee of Claims, on the petition of William Esenbeck; and in concurrence therewith the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee of Claims, on the petition of John Brown; and in concurrence therewith, resolved, that the prayer of the petitioner ought not to be granted.

The Senate resumed the consideration of the motion of the 7th instant, for requesting information of the proceedings which may have been had under the act, entitled "An act for the grad-

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ual increase of the Navy of the United States," and agreed thereto.

The Senate resumed the consideration of the report of the Committee of Claims, on the petitions of William Purcel and Martin Rose; and in concurrence therewith, resolved, that the petitioners have leave to withdraw their petitions.

The Senate resumed the consideration of the report of the Committee on Military Affairs, on the petition of John Hebbert, and others; and in concurrence therewith, resolved, that the petitioners have leave to withdraw their petitions.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Winslow and Henry Lewis," together with the amendments reported thereto by the Committee of Claims; and, on motion by Mr. ASHMUN, the bill, together with the amendments, were recommitted to the Committee of Claims, with instructions to ascertain and allow the interest on the amount found to be due the said Winslow and Henry Lewis.

Mr. ROBERTS presented the petition of Joseph Forrest, of the City of Washington, praying compensation for the loss of a certain schooner, called the William Yeaton, chartered in the month of May, 1812, to the agent of the United States to take a cargo of provisions from New York to Laguaira, which was seized and condemned, as stated in the petition; which was read, and referred to the Committee of Claims.

The Senate then proceeded to the consideration of the following resolution offered yesterday by Mr. CAMPBELL:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of requiring, by law, the nomination of agents to Indian tribes to be submitted to the Senate for their consent and approbation, in like manner as the nominations of other officers now are.

Mr. TAIT suggested whether it would not be proper to embrace within the objects of inquiry the appointment also of the Superintendent of Indian Affairs. It was an office of much responsibility, he said; through which was disbursed large sums of the public money, but it was an office at present filled without the concurrence of the Senate.

Mr. CAMPBELL accepted the amendment suggested to the resolution by Mr. TAIT.

Mr. MORROW remarked that he presumed the Superintendent of Indian Trade was meant, as there was no such officer as Superintendent of Indian affairs—the Governors of the Territories were the superintendents of Indian affairs—and suggested as a further inquiry the propriety of providing for the nomination to the Senate also of Indian factors; when,

On motion of Mr. TAIT, to give time for inquiry into the proper objects to be included in the resolution, it was postponed until to-morrow.

FRIDAY, JANUARY 9.

ELIGIUS FROMENTIN, from the State of Louisiana, arrived the 8th instant, and attended this day.

Mr. GOLDSBOROUGH presented the memorial of William Patterson and others, of Baltimore, manufacturers of woollen and cotton goods; and others, interested in the support and protection of domestic industry, and the improvement of the useful arts in the United States; praying that the protecting duties of the tariff, as now in operation, be made permanent, and that further Legislative provisions be made for the collection of the impost, for reasons stated in the memorial; which was read, and referred to the Committee on Commerce and Manufactures.

Mr. GOLDSBOROUGH also presented the memorial of the Philanthropic Society of Easton, Maryland, praying some further Legislative provision, for the purpose of more effectually suppressing the kidnapping and internal traffic in the persons of color, as stated in the memorial; which was read, and referred to the committee to whom was referred, on the 18th December, the petition of the committee of the yearly meeting of the Society of Friends, at Baltimore.

Mr. SANFORD presented the memorial of Samuel Campbell and others, manufacturers and vendors of American manufactured paper, in the city of New York and its vicinity, praying the protection of Congress, for reasons stated in the memorial; which was read, and referred to the Committee on Finance.

The Senate resumed the consideration of the motion of the 7th instant for instructing the Committee on Military Affairs, relative to the nomination of agents to Indian tribes; which, having been amended, was agreed to as follows:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of requiring, by law, the nomination of Superintendent of Indian Trade, and of agents to Indian tribes, as also of agents for trading-house establishments, to be submitted to the Senate for their consent and approbation, in like manner as the nomination of other officers now are; and, generally, to inquire whether any, and what amendments are necessary to be made in the laws for regulating intercourse, and for establishing trading-houses with the Indian tribes.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making further provision for repairing the public buildings," in which they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was recommitted the bill, entitled "An act for the relief of Winslow and Henry Lewis," together with the amendments reported thereto; reported the same with a further amendment, which was read and considered, as in Committee of the Whole, and disagreed to; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment having been concurred in, it was ordered to be engrossed and the bill read a third time, as amended.

The bill, allowing compensation to the mem-

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bers of the Senate, members of the House of Representatives of the United States, and to the delegates of the Territories, and repealing all other laws on that subject, was read the second time.

The bill, entitled "An act to incorporate the Columbian Insurance Company of Alexandria," was read the second time, and referred to the Committee on the District of Columbia.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act in addition to 'An act for the relief of John Thompson;'" and, on motion of Mr. ROBERTS, it was recommitted to the Committee of Claims.

The amendments to the resolution, directing the procurement of certain laws, having been reported by the committee correctly engrossed, the resolution was read a third time as amended, and passed, with amendments.

MONDAY, January 12.

Mr. DAGGETT presented the petition of Elijah Rice, of the town of Wolcott, in the State of Connecticut, a soldier of the Revolutionary army, praying relief in consideration of his long and faithful services and severe sufferings, as stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. VAN DYKE presented the memorial of Jas. Brobson, Marshal of the State of Delaware, praying an increase of compensation, for reasons stated in the memorial; which was read, and referred to the Committee on the Judiciary.

Mr. MORRIL presented the petition of John Orr and others, inhabitants of New Hampshire, praying a post route, for reasons stated in the petition; which was read, and referred to the Committee on the Post Office and Post Roads, with instructions to inquire into the expediency of establishing a post route from Dunstable, in New Hampshire, to Concord, in New Hampshire, on the river road, so called, through the towns of Merrimack, Bedford, Goffstown, Dunbarton, and Bow, to Concord.

Mr. TAYLOR submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of providing, by law, for the sale of the surplus lands which were reserved to satisfy militia and donation claims, in the neighborhood of Vincennes, in the State of Indiana.

Mr. ROBERTS, from the Committee of Claims, to whom was recommitted the bill, entitled "An act in addition to 'An act for the relief of John Thompson,'" reported it with amendments; which were read.

Mr. ROBERTS, from the same committee, to whom was referred the petition of William Farris, senior, made report, together with the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition.

The report and resolution were read.

Mr. ROBERTS, from the same committee, to whom was referred the petition of Nathaniel Cui-

ting, also made report, together with the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition.

The report and resolution were read.

The amendment to the bill, entitled "An act for the relief of Winslow and Henry Lewis," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed with an amendment.

A message from the House of Representatives informed the Senate that the House concur in the amendments of the Senate, to the bill, entitled "An act for the relief of Joel Earwood," with an amendment, in which they request the concurrence of the Senate.

Mr. ASHURN submitted the following motion for consideration:

*Resolved*, That the Committee on Military Affairs be directed to inquire into the expediency of providing, by law, for the attendance of witnesses before courts martial.

The bill, entitled "An act making further provision for repairing the public buildings," was read the second time, and referred to the Committee on the District of Columbia.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act, in addition to 'An act making appropriation for repairing certain roads therein described;'" and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act allowing compensation to the members of the Senate, members of the House of Representatives of the United States, and to the delegates of the Territories, and repealing all other laws on that subject;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment having been concurred in, it was ordered to be engrossed, and the bill read a third time as amended.

On motion, the Senate proceeded to consider the amendment of the House of Representatives, to their amendments to the bill, entitled "An act for the relief of Joel Earwood," and concurred therein.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the petition of the trustees for the Vincennes University, made report, together with the following resolution:

*Resolved*, That the petitioners have leave to withdraw their petition.

The report and resolution were read.

#### THE AFRICAN SLAVE TRADE.

The following resolution, offered some days ago by Mr. BURRILL, was taken up:

*Resolved*, That the committee, to whom was referred the petition of the committee of the yearly meeting of the Society of Friends at Baltimore, be instructed to inquire into the expediency of so amending the laws of the United States on the subject of the African slave trade, as more effectually to prevent said trade from being carried on by citizens of the United States,

under foreign flags; and also into the expediency of the United States taking measures, in concert with other nations, for the entire abolition of said trade."

Mr. BURRILL said, that, at the time he had the honor of moving the resolution, he had not anticipated any objection to it; but, from the debate on the subject on a former day, it appeared that some honorable gentlemen thought it unnecessary to make the inquiry at all, and that any concert with foreign nations, to attain the end proposed, was highly improper and dangerous. The question before the Senate was not upon the adoption of any specified or prescribed line of conduct, for the purpose of putting the finishing hand to the great work of the abolition of the slave trade; it was merely whether it should be referred to a committee to inquire into the expediency of taking measures, in concert with other nations, for this great and benevolent purpose. The committee may inquire, and be of opinion that it is inexpedient to adopt any measures whatever, or at least that it is not proper to take measures in concert with other Governments. If the Senate should refuse an inquiry into the propriety of this course, they might be subjected to the imputation of disregarding the implied obligations of the Treaty of Ghent, by the tenth article of which it is recited, that both the parties are desirous of continuing their efforts to promote the entire abolition of the slave trade, and agree that both shall use their best endeavors to accomplish so desirable an object. If the Senate should refuse the inquiry, it might give rise to unjust surmises and suspicions as to the sincerity of the Government in passing laws for this purpose, and in entering into the stipulations of the Treaty of Ghent. The United States cannot justly be charged with having acted in bad faith, either in making or performing treaties; and, as the United States have the honor of having led the way in the glorious cause of abolishing the slave trade, there can be no doubt that, in making this stipulation at Ghent, our Envoys acted with sincerity, and he hoped were entitled to the merit of having proposed the article. This article, as well as the rest of that treaty, met universal approbation. Ought we, then, to refuse to refer it to a committee, to inquire whether further measures are not necessary, or at least expedient? If any honorable gentleman had moved to go into a Committee of the Whole on this question, would it have been refused? What danger or inconvenience, then, could arise from referring the subject for investigation? This Committee, if convinced that further measures are necessary, would report those measures to the House; and, should they recommend a concert with foreign nations for this purpose, the subject then, having some length and breadth, and dimensions, could be examined and considered. But this could not so well be done now, because there was no specific proposition before the House. There was no such danger to be apprehended as some gentlemen imagined, from the generality of the terms of the proposition now under debate. This is the common and ordinary course in commencing the consideration

of any subject in the Senate, and the Senate should be cautious not to give ground for the disgraceful suspicion that they are not sincere and hearty in this cause of suffering humanity. Every gentleman in this House wishes for the entire abolition of this abominable traffic, and this is the general voice of the country. The gentlemen here representing the slaveholding States, are as decided as any others on this point, and one of those States (Virginia) was entitled, he believed, to the honor of having been the first State to prohibit it. It was better, as the subject had some connexion with others which were of a peculiarly delicate nature, to refer it to a deliberate inquiry in a small committee, than to make it a topic of debate under some general proposition, in which way considerations which did not fairly belong to the subject would insensibly mingle with it.

Some gentlemen, he said, doubted the propriety of the Senate's advising or directing the Executive as to the commencement of a negotiation, or the purposes of it. It was truly singular if the Senate, who were to be called upon for their advice and consent before any negotiation could end in the shape of a ratified treaty, and without whom no ambassador or envoy could even be appointed, could not express their opinion beforehand, as to the propriety or necessity of any proposed arrangement with a foreign Power. They had done it in the case referred to in the debate upon this motion on a former day, by the gentleman from New York, (Mr. KING,) and the gentleman from Tennessee, (Mr. CAMPBELL.) The British House of Commons do it, though that House possesses no part of the treaty-making power, and they had done so in effect in 1783, and on other memorable occasions.

If any measures should be adopted, in concert with other nations, there can be no danger, as some gentlemen apprehend, that we shall, by this means, be entangled in foreign alliances, or involved in war. What nation would be likely to go to war for the slave trade? We have already entered into a concert with Great Britain for this purpose, and we might enter into a like concert with other Powers. All the great Powers of the world, except Spain and Portugal, have already combined, so far as to express their wishes and opinions, and in many instances have gone much further, and have acted in concert with effect. Spain and Portugal may both be influenced by our representations, and induced to co-operate from the desire and the interest they have in conciliating the United States. At least we ought to ask for their concurrence. New governments and republics seemed to be forming, or are formed, in the South; their concurrence in putting an end to the trade is indispensable, if it is ever to be abolished. They have the strongest motives for desiring a good understanding with this country, and would not be deaf to our representations. Should all Christian nations, or a great majority of them, agree upon this point, it would soon be considered a traffic against the law of nations, and this international law must prove more ef-

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fectual than the municipal laws of separate Governments, acting without concert.

Unless, he said, further steps should be taken, all that had been done would be useless, and worse than useless. The trade being forbidden by some nations, and interrupted by force by Great Britain, the risks of it had increased; many men, who might otherwise have had no scruples of conscience, would not, however, violate the laws of their country, and the consequence was, that the price of the unhappy beings who were the objects of this traffic had fallen very low on the coast of Africa; unprincipled adventurers, restrained by no moral obligation, had engrossed the trade. They crowded the wretches they had purchased for a trifle into the holds of small fast sailing vessels, and the sufferings and mortality of the passage had increased to a frightful degree. It had been lately stated to his Government, by a British officer of rank, Sir James Yoe, that six hundred human beings had been stored aboard a vessel of only one hundred and twenty tons, thirty of whom died in sailing eighty leagues; and enormities of this sort were carried on in sight almost of our shores, and by some, he feared, who had the privileges and the boast of American citizenship.

He would only add, that one cause of our complaint against the late establishment of a pretended republic in Florida, was, that the Government had connived at, and gave facilities to, the carrying on of this trade. The slaves which, under pretext of capture or otherwise, were brought into these places, were smuggled into the United States, in violation of the laws of the United States, and of all the particular States. There was proof, among the documents communicated by the President, that a privateer commanded and manned by Americans under the patriotic flag, as they called it, had taken a slave vessel, also commanded and manned by Americans, and that these slaves had been smuggled into Louisiana in defiance of all law.

With these views of the subject, he hoped the Senate would see the necessity of taking further measures to repress the trade, and at length to put an end to it.

Mr. BARBOUR said, that, while he was decidedly in favor of the main object of the resolution, that of revising the laws, and remedying every defect for the prevention of the wicked trade in question, there was a part of the resolution of which he did not approve, and, if retained, he should vote against it. And hence, lest his views might be misunderstood, he felt himself compelled to intrude on the attention of the Senate, while he briefly disclosed his reasons. Before he did this, however, he would make a few general remarks. He felt himself obliged to the gentleman from Rhode Island, for doing justice to Virginia, in admitting she had been the first to protest against this trade. But it was no more than an act of justice; for such certainly was the fact. Her zeal in this good cause has undergone no diminution. The United States followed her example; America stands in the re-

lation to the rest of the world, that Virginia does to America. She took the lead in the humane effort to exterminate this horrible traffic. He rejoiced to see that the great nations of Europe had adopted her precepts, and were imitating her enlightened and philanthropic example. Spain and Portugal constitute the only exception; the former, it is said, with what truth he knew not, has received a pecuniary compensation to abandon the traffic. Should this be true, as he cordially hoped it might be, Portugal will then stand alone. It is reasonably to be anticipated, that she will not be able to resist the incumbent load of the civilized world; when their remonstrances are enforced by the united influence of justice, humanity, and philanthropy. Africa, then freed from those disastrous effects which this trade has produced, may, under the benign influence of peace, reason and religion, indulge a hope, that in the fulness of time she may participate in the blessings of civilization, with all its beneficent effects. Nor was he averse to adopting measures in concert with any nation, which he believed would be calculated to hasten the destruction of this trade. For his part, he feared nothing from an alliance with any nation, whose only object was humanity. No man could more highly appreciate, than he did, the soundness of the political maxim, inculcated by the Father of his Country, in his legacy to the American people—that of avoiding entangling alliances with other nations; yet, with all his reverence for this wise precept and his determination to pursue its suggestions, he felt no apprehension from the concert proposed. A concert like the one proposed is in its character novel; its object is humanity; while alliances denounced by the above wise maxim, have for their object dominion and power, to be acquired by the misery of mankind; to extricate a nation from which, is not unfrequently attended with a violation of honor; or, if executed, it is frequently with the sacrifice of peace, and sometimes with ruin. But what can we fear? Before any such concert can be taken, the terms on which we unite must receive our sanction; a guarantee sufficient to quiet the apprehensions of the most cautious. In so far, then, as the principal project of the resolution is concerned, or the means of effecting it, he would go with the mover; but the part to which he objected, was that proposing that Congress should unite with other nations to produce the object; this he considered to be improper. Congress can act only in its legislative capacity; and by, consequence, can enter into no concert with other nations. That has been assigned to another branch of the Government. It is through the Executive alone that intercourse and arrangements with other nations can be effected. Leave it therefore where the Constitution has placed it, without discussing the question how far this body has a right to advise, in its Executive character, the Chief Magistrate, upon the propriety of entering into new arrangements with foreign nations; a question on which there is a difference of opinion. He would content himself by remarking, that



he believed such an authority had never yet been exercised; but, be the power as it may, it will be readily conceded that this is not one of the cases which would justify it; or, if it were, this is neither the time nor the manner in which it should be performed. It has been urged, indeed, that, by the Treaty of Ghent, America and Britain, having agreed to use their best endeavors to put an end to this traffic, that this course, as now recommended, may find a shelter from criticism in that article; as it is merely in fulfilment of the obligation thereby contracted. Mr. B. conceived that the article in question had no other object, than to furnish to the civilized world an unequivocal testimonial of the sentiments of the contracting Powers in regard to this trade. Both nations having, therefore, made use of what they esteemed the best method to suppress it, and entertaining, reciprocally, the most entire confidence that they were sincere in their wishes to effect it, either would repel with scorn an insinuation that an article of this kind was necessary to secure, in future, their zealous perseverance in a course which had been previously adopted, of their own mere will, and which rested upon a much surer foundation than compact, namely, upon their sense of its justice, humanity, and propriety. But, waiving any advantage to be derived from this view of the subject, and yielding, for argument sake, that the Treaty of Ghent created an obligation on the United States, he would ask if Britain had suggested that this Government had been wanting in its duty? She cannot? Or will any gentleman here insinuate that there is less zeal in the Executive to promote the desired object, than in this House, or the nation? If not, why adopt this anomalous proceeding, and by a legislative act declare the necessity of a concert, and the terms on which it shall be adopted? For if this is not done, why inquire into it? To him, it seemed important that this body should keep within its legitimate sphere, and, when it acts, act effectually. Under these impressions, he permitted himself to hope that the mover himself would consent to such a modification of his resolution, as to exclude the objectionable feature; and, thereby conciliating the whole Senate, to obtain a unanimous vote in its favor; otherwise the division which would ensue, while it might be the means of producing a false estimate of our real opinions, would counteract in no small degree the great object, as well of the mover, as of every member of the Senate; namely, a unanimous opinion of the whole body that the traffic is an outrage upon justice and humanity.

Mr. B. concluded by remarking, that if his proposition was not acceded to, he should move to strike out so much of the resolution as proposed that Congress should adopt measures of concert with other nations.

Mr. TROUT said he had no intention, when he objected the other day to a part of the resolution, to involve the Senate in a debate upon it; and he very plainly perceived that, at this stage of it, it would be considered premature to discuss at large the merits of the question. But he would

submit to the Senate if it were competent to them, in union with the President, to pledge the arms and resources of the country, in a concert with foreign Powers, for any object whatsoever. He denied that it could be done in the spirit of the Constitution. It would be a pledge of that which we had not. The arms and resources of the country were confided elsewhere; they were deposited, not with the two, but the three branches of the Legislature; and, in fact, were not even to be found there. The people were essentially the depository of them, and their Representatives the organ. Yet it was proposed to pledge, by an act of the Executive power only, the arms and resources of a nation in concert with foreign Powers, for the abolition of the slave trade. Gentlemen seemed to entertain very different significations of the term concert; for his part, Mr. T. said, he knew of but one signification, which, in its application to the present subject, could legitimately attach to it; a signification sustained equally by the law of nations, the law of diplomacy, as far as he knew such a law, and the universally received acceptance of the term—concert with foreign nations—Sir, what is it but a term for common councils and common efforts? The gentlemen propose to themselves a great object—no less than the universal abolition of the slave trade; other nations, they acknowledge, hold out against them. Will they be content, then, with a concert of common councils? Assuredly they will not. Between nations common councils mean nothing, unless sustained by common efforts; and common efforts between nations mean nothing less than war, if war be necessary for the object. War must be necessary, so long as other nations assert the right and hold to the practice of the slave trade. It is true that you may begin with negotiation, but it is certain that, if negotiation fail, you must resort to war. What would avail a treaty stipulation which would pledge the United States to exert, in concert with Great Britain, their advice and persuasion to induce Spain and Portugal to abolish the slave trade? Spain and Portugal would care nothing about your advice and persuasion, especially when you told them that you intended nothing more. Rhetoric and eloquence are not the instruments of nations for the execution of grand projects. He was well persuaded that the gentleman from Rhode Island meant to deal in something more substantial; idle and insignificant verbiage could not suit his purpose, for, if it did, he already found it in a treaty. This word concert, therefore, Mr. President, means something—it means connexion, combination, alliance, for a given object; it means entangling alliance. You are admonished against entangling alliances; for what reason? Because our Government is of its own kind, insulated, the only Republic in the world, between which and other Governments there is no common principle, no common feeling, no common sympathy; they may combine for their own interests; they may enter into concert for your destruction; they will not be so ready to combine with you either to promote your interests, or in-

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terests common to you and them. You propose a concert with crowned heads! They never concert with themselves, but broils, and quarrels, and wars, follow in the train. History is full of them; and, if entangling connexions, sir, between monarchs, who wield the sword and the purse, who make peace and war at their will, be fruitful of these mischiefs, what may we not expect when you enter the lists without the means of doing what you engage to do? Gentlemen will say this mode of reasoning is entitled to little weight; it is speculative—admit it; the argument of experience is alone admissible, and the argument of experience is decisive. The only instance which I recollect, sir, of a concert between this country and any foreign Power is that of the French Treaties of 1778. It was a concert, and it turned out a most entangling one. It was a concert, too, for an object near and dear to the American heart; a concert for liberty and independence. A more important object can never present itself. In the one treaty we stipulated the guaranty of the French American possessions; in the other, we stipulated that France (being in a state of belligerency with any other Power) might use our ports freely with her ships of war and prizes. Now, sir, I pray you, how did we fulfil our stipulations? We did not fulfil them at all. We got out of the difficulty, I will not say dishonorably, but as well as we could. I believe, sir, the men who presided over our councils, at the time of which I speak, were honorable men, and were willing to do whatever they could to carry into effect, in good faith, what they engaged to do; but, sir, they could not; they wanted the sword and the purse, and the Constitution had intrusted them to others; they were intrusted to the people. I sincerely believe, sir, that France saw the embarrassing dilemma, and took pity upon us. She saw we could not execute the guaranty without going into the war, and she forbore to press it. But, in consequence of her thus forbearing, she thought she might the more rightfully demand the rigid execution of the other article. We had stipulated to allow French ships of war and prizes to go and come freely, and to remain at pleasure; it was a stipulation partial in effect. France, being at war with England, it admitted to France what it refused to England. It was inconsistent, too, with the spirit of President WASHINGTON's proclamation of neutrality. France having abandoned her claim for the fulfilment of the guaranty, thought she was entitled to a favorable construction of the article relating to ships of war and prizes. She demanded the right of arming, and fitting, and commissioning in our ports. We resisted, and eventually we found ourselves in a war with France. This, sir, is the only instance of a concert between this country and a foreign Power which I recollect; such has been the result of it, and such will ever be the result. It is unavoidable from the nature of our political institutions. We enter into embarrassing stipulations; we are called upon to execute them; we call upon the people to draw the sword and ad-

vance the purse; they answer us, no! we have nothing to do with your treaties of concert or your guaranties; if you are unwise enough to enter into them, you may get out of them as well as you can; you shall not do so at our expense, or with our aid and assistance. And so, sir, they will answer always. They will go to war for rights which belong to them; for their honor, their independence; for interests essentially their own; they will not for rights and interests which are extraneous, and in which they feel no concern. This was the lesson taught by the people to the men who directed our councils on the occasion to which I referred; an awful warning never to put to hazard the peace of this country by connexions with foreign Powers for any objects whatsoever, much less for objects foreign to our interests and our feelings. The treaties adverted to were negotiated under the former Government. It is believed that nothing similar has occurred under the present. Mr. T. said he would no longer tire the patience of the Senate with such desultory remarks; but he could not forbear the expression of his surprise that the proposition of the gentleman should be urged with so much zeal and earnestness, when it was well known to the Senate and the world, that from the origin of the present Government, almost up to the present moment, American citizens, the flesh and blood of the land, had been seized by the Algerines, handcuffed and chained, incarcerated and enslaved, four thousand miles from their homes and the bosoms of their families, and no instance is recorded of a proposition having been submitted to the Senate to advise the President to enter into concert with foreign nations for the abolition of Algerine slavery.

Mr. WILSON called for a division of the question on the resolution, so as to take it separately on its two clauses.

Mr. BARBOUR, observing that the motion he was about to make would supersede that of the gentleman from New Jersey, moved to strike out the latter clause of the resolution.

Mr. MORRILL said, that with peculiar emotions, he asked the attention of the Senate to a few remarks on this subject. It was with extreme diffidence he rose to address the Senate on this occasion. I am not insensible, said he, of the extent of the field on which I enter, nor of my inability to explore it. A subject, sir, co-extensive with the world, in which this extensive Republic have an interest, and on which, by their delegated Representatives, they may express an opinion—whether they will “use their best endeavors” to effect a complete abolition of the slave trade. Sir, upon this it seems there can be but one opinion.

Coming from New England, where slavery is unknown, my prejudices may be strong, my views enthusiastic; but, sir, allow me to be honest, believe me sincere, permit me to be plain. In New England we believe “all men are born equally free and independent”—thus commences our “Bill of Rights.” Whatever their color, powers of mind, property, or rank in society, they are

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freemen—citizens, not slaves. They have a claim to that freedom in this asylum of liberty. These sentiments, sir, commenced with my existence; advanced with my youth; were strengthened with my manhood; and are confirmed with my age. They are not only mine, but universally the sentiments of those whose confidence and affection have exalted me to this honorable station. Shall I not speak their sentiments on this occasion? Shall I not desire the termination of slavery? It is a duty, sir, I owe to myself, my country, and my God. That respectable section of the nation which I have the honor to represent, has a right to demand it at my hand.

When I examine this resolution, sir, I am unable to discover why any objection should be made. In passing it, we do not say we believe it is expedient to amend "the laws of the United States on the subject of the African slave trade;" nor that we will enter into any "concert with other nations for its entire abolition." But, sir, we say, we are willing to instruct a respectable committee to examine those subjects, in all their parts and bearings, as to the expediency of the objects suggested, and report to the Senate, which report will then be under the perfect control of this body. The Senate may then approve or disapprove, as its wisdom may dictate. Where then is the difficulty? For myself, sir, I am in favor of the resolution. Permit me to assign a few reasons. It is founded, in part, on an article of the Treaty of Ghent. The words are as follows: "Whereas, the traffic in slaves is inconsistent with the principles of humanity and justice; and whereas, both His Majesty and the United States are desirous of continuing their efforts to promote its entire abolition, it is hereby agreed, that both the contracting parties shall use their best endeavors to accomplish so desirable an object." In this, sir, there is nothing very specific, as to the manner in which their desires shall be manifested. But the contracting parties view "the traffic in slaves inconsistent with the principles of humanity and justice," and, therefore, agree to use "their best endeavors," to effect its abolition. How this is to be accomplished, is another point. They may have different views, and, consequently, each may pursue a different course. Therefore, sir, I am perfectly willing to submit the subject to the investigation of the committee, that they may report thereon.

The abolition of slavery was contemplated by the framers of our Constitution. Sec. 9—"The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808." Here, sir, we see those venerable sages prospectively viewed the period in which we live, when Congress should manifest a disposition to abolish the slave trade. Wise provision! a duty negatively expressed. A provision, sir, which has given rise to a disposition that pervades the United States, to pursue and accomplish the benevolent object. Nay, sir, it is not confined to the United States;

it extends to almost every civilized nation on the globe. A spirit of philanthropy glows in the human breast. Spain and Portugal are the only nations now averse to the object. The views of Spain, in all probability, will soon accord with those of other nations. Then Portugal will be the solitary kingdom whose voice and arm are not raised against this inhuman traffic. Let us proclaim, sir, that these sable mortals have a claim upon our philanthropy and our benevolence.

I am in favor of the resolution, sir, because its object comports with the dictates of reason and humanity. Though black, they are human beings, in human shape. That is not their crime, but their misfortune. We then ought to commiserate, not enslave them. Let exertions be made to raise them from their present state of degradation; assist in the mighty work. Every human affection recoils at their bondage. May every benevolent heart beat high for their freedom, and every human arm be extended for their emancipation. It is a cause, sir, in which the world is engaged. As it was commenced by the United States, let them continue their efforts; let Congress say, with all civilized nations, they will joyfully bear a part to accomplish an object so desirable, so humane.

But, sir, I am in favor of the resolution in a political point of view. Carry the great design into effect, and you place those forlorn objects within the reach of political and moral instruction. The basis on which every good Government most firmly stands, is knowledge and virtue. Diffuse and extend these sacred principles, and you enlarge the basis on which your Government is built; and, in the same proportion you carry the principles of liberty and the rights of man to those who grope in darkness, and aid in the emancipation of those who are bound in the chains of despotism. Virtue and knowledge, sir, are the firm foundation on which this mighty Republic is erected; on which it rises and on which it will continue to rise, so long as those divine principles are nourished, universally diffused and practised. This is what astonishes foreigners when they tread American ground. All classes of society can read and write, can name and give the characters of our rulers, the principles of our Constitution, the genius of our Government, and the nature of our laws. This was the reason, sir, France could not maintain a Republican Government. Knowledge and virtue were not sufficiently diffused through the nation. It was not on account of the extent of her territory, nor the number of her citizens. Monarchy and general ignorance go hand in hand. Despotism and slavery are always companions. This, sir, accounts for the protracted struggle in South America. They have physical strength and the means, but not knowledge and skill, to concentrate their exertions to the best advantage. Did they possess the general information enjoyed in the United States, their independence would be as certain as the rising sun.

Mr. President, I am in favor of the resolution in a moral point of view. We, sir, are a Chris-

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tian nation. The Bible is our moral guide. Are not its principles sacred, its precepts salutary, and its commands obligatory? Have not the frowns of indignant Heaven, and the threatenings of Jehovah, rested on nations and cities for their ingratitude to their fellow mortals? Babylon—Babylon the great has fallen! What has brought her down? The scene is viewed in prospect. "The merchants of the earth shall weep and mourn over her." In what did her commerce consist? "In gold, and silver, and precious stones, and pearls, and chariots, and slaves, and the souls of men." Ah, Mr. President, this was the climax of their abominations! They had a traffic in slaves and the souls of men. This brought down the judgments of Heaven. That they may be averted from the world, let the inhuman traffic be abolished to the end of the earth.

Mr. KING observed, that the motion was to instruct a committee to inquire whether further measures can be devised, in concert with other Powers, to put an end to the traffic in slaves on the coast of Africa. The debate, said Mr. K., has taken a wider range than from the definite object of the motion could have been anticipated. The advantages or disadvantages of alliances offensive and defensive, and the policy or impolicy of such treaties, as, with the view of acquiring some complicated though important political advantage, pledge the wealth and strength of the United States, are questions of most weighty importance; the discussion of which, however, is not requisite in debating the motion before the Senate. The concert which is alluded to in the motion, is not the union of arms, but of opinion, of example, and of influence, for the purpose of prevailing on Spain and Portugal to accede to the compact already formed among the nations, to put an end to the African slave trade. Equally uncalled for on this occasion, and more to be regretted, is a discussion of the justice and policy of permitting the existence of slavery. This topic is one, said Mr. K., that, from obvious considerations, has at all times been alluded to, even in the Senate, with great reserve; and, at this time, is without application to the motion under consideration, since not only no Senator approves of the traffic, the abolition of which is desired, but the whole Senate condemn it, and the United States were the first among the nations who restrained their people from engaging in it.

By the Treaty of Ghent, the United States stipulated with Great Britain to use their best endeavors to effect the complete abolition of the traffic in slaves on the coast of Africa. If a committee be appointed, they will inquire what has been done in pursuance of this engagement; they will moreover consider what remains to be done, and whether any measures of concert with other Powers, or otherwise, may be calculated to promote the laudable object of this stipulation. The United States have Ministers not only in England, Spain, and the Brazils, but likewise in Russia, France, the Netherlands, and Sweden. These Ministers may be reminded of the very great interest which the United States take in the uni-

versal abolition of the African slave trade; they may be instructed, if they are not so already, to avail themselves, on every occasion, to promote this object; and the concurring representations and influence of many may accomplish what their separate endeavors have hitherto failed to effect. A long depending negotiation with Spain still exists. If we could prevail on Spain to add to the treaty settling our just claims, an article whereby she should engage herself to abolish the African slave trade, and to co-operate with us in endeavoring to prevail on Portugal also to abolish the same, such an article would enhance the value of the treaty in the opinion of the American people, and would not fail to obtain the applause of foreign nations. The object of the motion being of such great importance, the Senate should neglect no opportunity of manifesting their solicitude for its accomplishment; and the inquiry which is proposed may fortunately discover that there are means still in our power, which have not yet been employed in this meritorious service.

But it is objected, that this business belongs exclusively to the President; and, admitting its importance, and the expediency of further exertions, that the Senate have nothing to do or say respecting the same. This objection appears to be of most serious import, as it goes to restrain and limit what is deemed to be the Constitutional power of the Senate. There is some embarrassment in the examination of this objection, and it cannot be fully and satisfactorily done, without adverting to the proceedings of the Senate, in its executive capacity; proceedings which take place with closed doors, and the journal whereof is not published. The observations on this head will, therefore, be of a general nature. Without adverting to the several branches of the executive power, for the purpose of distinguishing the cases in which it is exclusively vested in the President, from those in which it is vested in him jointly with the Senate, it will suffice on this occasion to observe that, in respect to foreign affairs, the President has no exclusive binding power, except that of receiving the Ambassadors and other foreign Ministers, which, as it involves the decision of the competence of the power which sends them, may be an act of this character; to the validity of all other definitive proceedings in the management of the foreign affairs, the Constitutional advice and consent of the Senate are indispensable.

In these concerns the Senate are the Constitutional and the only responsible counsellors of the President. And in this capacity the Senate may, and ought to, look into and watch over every branch of the foreign affairs of the nation; they may, therefore, at any time call for full and exact information respecting the foreign affairs, and express their opinion and advice to the President respecting the same, when, and under whatever other circumstances, they may think such advice expedient.

There is a peculiar jealousy manifested in the Constitution concerning the power which shall

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manage the foreign affairs, and make treaties with foreign nations. Hence the provision which requires the consent of two-thirds of the Senators to confirm any compact with a foreign nation that shall bind the United States; thus putting it in the power of a minority of the Senators, or States, to control the President and a majority of the Senate: a check on the Executive power to be found in no other case.

To make a treaty includes all the proceedings by which it is made; and the advice and consent of the Senate being necessary in the making of treaties, must necessarily be so, touching the measures employed in making the same. The Constitution does not say that treaties shall be concluded, but that they shall be made, by and with the advice and consent of the Senate: none therefore can be made without such advice and consent; and the objections against the agency of the Senate in making treaties, or in advising the President to make the same, cannot be sustained, but by giving to the Constitution an interpretation different from its obvious and most salutary meaning.

To support the objection, this gloss must be given to the Constitution, "that the President shall make treaties, and by and with the advice and consent of the Senate ratify the same." That this is, or could have been intended to be the interpretation of the Constitution, one observation will disprove. If the President alone has power to make a treaty, and the same be made pursuant to the powers and instructions given to his Minister, its ratification follows as a matter of course, and to refuse the same would be a violation of good faith; to call in the Senate to deliberate, to advise, and to consent to an act which it would be binding on them to approve and ratify, will, it is presumed, be deemed too trivial to satisfy the extraordinary provision of the Constitution, that has been cited. On the whole, there appearing to be no sufficient impediment in the way of the proposed inquiry, either as respects its expediency or the authority of the Senate to institute the same, I am in hopes that the motion to refer the subject to a committee will prevail.

Mr. LACOCK said, the resolution before the Senate contained two separate and distinct propositions; the first was the amendment of the laws that prohibited the introduction of slaves into the United States: on this subject there existed no difference of opinion—all agreed an end should be put to this abominable traffic. If the present statutory provisions were not so formed as to effect this object, they certainly required amendment; and no objection could be made to the inquiry, as this was a legitimate subject of legislation. But, said Mr. L., the other branch of the inquiry is of a very different character; it proposes to inquire into the best manner of executing an article of the Treaty of Ghent. The stipulations of this article are, that the contracting parties, the United States and Great Britain, should use their endeavors to put an end to the slave trade. But could this agreement be carried into effect by law? did it furnish a subject of le-

gislation? Laws were made to operate on the people of the United States, and within their jurisdiction, not to effect an arrangement with foreign Governments. This could only be done by treaty; and surely, said Mr. L., the initiatory steps in making treaties should be left with the Executive. But it has been urged by gentlemen in favor of this proposition, that the Senate can act on this subject by virtue of the Constitutional power of this body to interpose their advice and consent in making treaties. This argument cannot avail them; for, if we claim the power, and exercise it, as a part of our executive duties, why is this discussion, on the subject of a treaty, had with open doors? Has this ever been the practice of the Government? The Ministers of those Governments who admit and carry on the slave trade, are accredited by our Government—are on the spot, for aught I know, in the lobby or gallery, while we are discussing the propriety of putting a stop to their traffic in slaves. That this branch of the subject is improper for public discussion, is admitted by the gentleman from New York, (Mr. KING,) who has told you he felt embarrassed by this public discussion; that he is restrained by his situation from making observations that he otherwise would feel authorized to make. This concession on his part should convince every one that the proceedings are irregular. While we are thus openly debating the subject, for aught we know, the President is negotiating with other Powers to effectuate the object we have in view. He is bound, by the Constitution, to see the laws faithfully executed. The Treaty of Ghent has become the supreme law of the land, and it is unfair to presume that the President has neglected his duty. In short, said Mr. L., if we are anxious to have this subject pressed on the Executive, let us close our doors, as in other cases, and make a call on him for information; we shall then be put in possession of the facts officially; we shall know what steps, if any, have been taken, in concert with Great Britain, to put an end to the traffic we all abhor.

The question was then taken on the motion to strike out the latter clause of the resolution, and decided, yeas 16, nays 17, as follows:

YEAS—Messrs. Barbour, Campbell, Eppes, Fromentin, Gaillard, Lacock, Macon, Sanford, Smith, Stokes, Storer, Tait, Talbot, Taylor, Troup, and Wilson.

NAYS—Messrs. Ashmun, Burrill, Crittenden, Daggett, Dickerson, Fisk, Goldsborough, Horsey, Hunter, King, Leake, Morril, Morrow, Noble, Ruggles, Tichenor, and Van Dyke.

And on the question to agree to the motion as originally submitted, it was determined in the affirmative.

So it was *Resolved*, That the committee to whom was referred the petition of the committee of the yearly meeting of the Society of Friends at Baltimore, be instructed to inquire into the expediency of so amending the laws of the United States on the subject of the African slave trade as more effectually to prevent said trade from being carried on by citizens of the United States under foreign flags, and also into the expediency

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of the United States taking measures, in concert with other nations, for the entire abolition of said trade.

TUESDAY, January 13.

The PRESIDENT communicated the memorial of the President and Directors of the Bank of the United States, praying that so much of the twelfth fundamental article of the 11th section of the act to incorporate the subscribers to the Bank of the United States, as provides for the signing of the bills or notes of the bank, may be so altered and amended as to remedy the great inconvenience and hazard to which the corporation is subjected under the existing provision; which was read, and referred to the Committee on Finance.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of John Anderson," reported it without amendment.

Mr. TROUP presented the petition of Joseph Bevan, of the county of Effingham, in the State of Georgia, praying remission of duties on a steam engine imported into the United States, for reasons stated in the petition; which was read, and referred to the Committee on Finance.

Mr. ASHmun presented the petition of David Ames and others, praying an additional duty on imported paper, for reasons stated in the petition; which was read, and referred to the Committee on Finance.

Mr. RUGGLES presented the petition of A. Farquhar, of Richmond, in the State of Ohio, praying indemnification for the loss of bank notes, robbed from the United States' mail, as stated in the petition; which was read, and referred to the Committee on the Post Office and Post Roads.

On motion by Mr. CAMPBELL, the memorial of the General Assembly of the State of Tennessee, on the unsatisfied claims for land in that State, derived under the authority of the State of North Carolina, presented the 29th of December, 1817, was referred to the committee, to whom was referred the bill to authorize the State of Tennessee to issue grants and perfect titles on certain entries and locations of lands therein described, to consider and report thereon.

The amendment to the bill, entitled "An act allowing compensation to the members of the Senate, members of the House of Representatives of the United States, and to the delegates of the Territories; and repealing all other laws on that subject," having been reported, by the committee, correctly engrossed, the bill was read a third time as amended, and passed with an amendment.

The Senate resumed the consideration of the report of the Committee on Public Lands, to whom was referred the petition of the Trustees for the Vincennes University; and in concurrence therewith, the petitioners had leave to withdraw their petition.

The Senate resumed the consideration of the motion of the 12th instant, for instructing the Committee on Public Lands to inquire into the

expediency of providing for the sale of the surplus lands in the neighborhood of Vincennes, in the State of Indiana; and agreed thereto.

The Senate resumed the consideration of the motion of the 12th instant, for instructing the Committee on Military Affairs to inquire into the expediency of providing for the attendance of witnesses before courts martial; and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act, in addition to 'An act making appropriation for repairing certain roads therein described;'" and, on motion by Mr. TAIT, it was referred to a select committee, to consider and report thereon; and Mr. TAIT, Mr. CAMPBELL, and Mr. LEAKE, were appointed the committee.

Mr. WILSON submitted the following motion for consideration:

*Resolved*, That the Committee on Military Affairs be instructed to inquire whether any, and, if any, what further provisions by law are necessary to secure to the heirs of soldiers who died, or who were killed in the service of their country, during the late war, the bounty in land to which they are equitably entitled.

WEDNESDAY, January 14.

Mr. DAGGETT presented the petition of Ann Welsh, of New London, Connecticut, representing that her husband, Captain John Welsh, having been killed during the Revolutionary war, in the attempt to take the British garrison at Penobscot, while at the head of his troops, her hopes of support devolved on her brother, George Hurlbert, who was then an officer in the Continental army: but that the latter received a wound in an engagement with the enemy, of which, after languishing in excruciating distress, he died in the year 1783; leaving the petitioner entirely helpless and unprovided for. In consideration of those losses and her present distress, being old and unable to support herself, she prays relief; and the petition was read, and referred to the Committee on Pensions.

Mr. FROMENTIN submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of allowing to the judge of the sixth circuit court of the United States, a sum equal to the salary of the district court of South Carolina, for the term of one year, during which time the said circuit judge was compelled by law to perform the duties of the judge of said district court.

Mr. MORRIL gave notice that, to-morrow, he should ask leave to bring in a resolution, providing for the distribution of the sixth volume of the laws of the United States, among the members of the present Congress.

Mr. WILLIAMS, of Mississippi, submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to inform the Senate what measures have been taken in pursuance of so much of the third and fifth sections of the act, entitled "An act to authorize



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*Amelia Island.*

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the appointment of a surveyor for the lands in the northern part of the Mississippi Territory, and the sale of certain lands therein described," as relates to the reservation of certain sections, for the purpose of laying out and establishing towns thereon.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom the subject was referred, reported a bill to divide the State of Pennsylvania into two judicial districts; and the bill was read, and passed to the second reading.

Mr. ROBERTS presented the memorial of Paul Beck, junior, and Thomas Sparks, of the city of Philadelphia, manufacturers of shot, praying an additional duty of one cent per pound on imported shot, may be laid, for reasons stated in the memorial; which was read, and referred to the Committee on Finance.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of William Farris, senior, and in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Nathaniel Cutting, and in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the motion of the 13th instant, for instructing the Committee on Military Affairs relative to bounty land; and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act in addition to an act, for the relief of John Thompson," together with the amendments reported thereto by the Committee of Claims; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Anderson;" and, on motion by Mr. ROBERTS, the further consideration thereof was postponed until next Monday week.

## AMELIA ISLAND.

The following Message was received, yesterday, from the PRESIDENT of the UNITED STATES:  
*To the Senate and House of  
Representatives of the United States:*

I have the satisfaction to inform Congress, that the establishment at Amelia Island has been suppressed, and without the effusion of blood. The papers which explain this transaction, I now lay before Congress.

By the suppression of this establishment and of that at Galveztown, which will soon follow, if it has not already ceased to exist, there is good cause to believe that the consummation of a project fraught with much injury to the United States has been prevented. When we consider the persons engaged in it, being adventurers from different countries, with very few, if any, of the native inhabitants of the Spanish colonies, the territory on which the establishments were made; one on a portion of that claimed by the United States, westward of the Mississippi, the other on a part of East Florida, a province in negotiation between the United States and Spain—the claim of their leader as announ-

ced by his proclamation on taking possession of Amelia Island; comprising the whole of both the Floridas, without excepting that part of West Florida which is incorporated into the State of Louisiana—their conduct while in the possession of the island, making it instrumental to every species of contraband, and in regard to slaves of the most odious and dangerous character, it may fairly be concluded, that if the enterprise had succeeded on the scale on which it was formed, much annoyance and injury would have resulted from it to the United States.

Other circumstances were thought to be no less deserving of attention. The institution of a Government by foreign adventurers in the island, distinct from the colonial government of Buenos Ayres, Venezuela, or Mexico, pretending to sovereignty, and exercising its highest offices, particularly in granting commissions to privateers, were acts which could not fail to draw after them the most serious consequences. It was the duty of the Executive either to extend to this establishment all the advantages of that neutrality which the United States had proclaimed and have observed in favor of the colonies of Spain, who by the strength of their own population and resources, had declared their independence, and were affording strong proof of their ability to maintain it, or of making the discrimination which circumstances required. Had the first course been pursued, we should not only have sanctioned all the unlawful claims and practices of this pretended government in regard to the United States, but have countenanced a system of privateering in the Gulf of Mexico, and elsewhere, the ill effects of which, might, and probably would have been deeply and very extensively felt. The path of duty was plain from the commencement, but it was painful to enter upon it while the obligation could be resisted. The law of 1811, lately published, and which it is therefore proper now to mention, was considered applicable to the case, from the moment that the proclamation of the chief of the enterprise was seen, and its obligation was daily increased by other considerations of high importance already mentioned, which were deemed sufficiently strong in themselves to dictate the course which has been pursued.

Early intimation having been received of the dangerous purposes of these adventurers, timely precautions were taken by the establishment of a force near the St. Mary's to prevent their effect, or it is probable that it would have been more sensibly felt.

To such establishments, made so near to our settlements, in the expectation of deriving aid from them, it is particularly gratifying to find that very little encouragement was given.

The example so conspicuously displayed by our fellow-citizens, that their sympathies cannot be perverted to improper purposes, but that a love of country, the influence of moral principles, and a respect for the laws, are predominant with them, is a sure pledge, that all the very flattering anticipations which have been formed of the success of our institutions will be realized. This example has proved, that if our relations with foreign Powers are to be changed, it must be done by the constituted authorities, who, alone, acting on a high responsibility, are competent to the purpose; and until such change is thus made, that our fellow-citizens will respect the existing relations by a faithful adherence to the laws which secure them.

Believing that this enterprise, though undertaken by persons, some of whom may have held commis-

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sions from some of the colonies, was unauthorized by, and unknown to, the colonial governments, full confidence is entertained, that it will be disclaimed by them, and that effectual measures will be taken to prevent the abuse of their authority in all cases to the injury of the United States.

For these injuries, especially those proceeding from Amelia Island, Spain would be responsible, if it was not manifest that, though committed in the latter instance through her territory, she was utterly unable to prevent them. Her territory, however, ought not to be made instrumental, through her inability to defend it, to purposes so injurious to the United States. To a country over which she fails to maintain her authority, and which she permits to be converted to the annoyance of her neighbors, her jurisdiction for the time necessarily ceases to exist. The territory of Spain will nevertheless be respected, so far as it may be done consistently with the essential interests and safety of the United States. In expelling these adventurers from these posts, it was not intended to make any conquest from Spain, or to injure in any degree the cause of the colonies. Care will be taken that no part of the territory contemplated by the law of 1811 shall be occupied by a foreign government of any kind, or that injuries of the nature of those complained of, shall be repeated, but this, it is expected, will be provided for, with every other interest, in a spirit of amity, in the negotiation now depending with the Government of Spain.

JAMES MONROE.

The Message and accompanying documents were read.

THURSDAY, January 15.

On motion by Mr. GOLDSBOROUGH,  
*Resolved*, That when the Senate adjourn, it adjourn until Monday next, for the purpose of having the necessary repairs made in their Chamber to render it safe for their accommodation.

Mr. WILSON, from the Committee of Claims, to whom was referred the petition of Rees Hill, made report, together with the following resolution:

*Resolved*, That the petitioner have leave to withdraw his papers.

The report and resolution were read.

Mr. GOLDSBOROUGH presented the petition of William G. Ridgely, of Georgetown, in the District of Columbia, praying that certain bonds given for an alleged violation of the non-importation law, may be cancelled and restored to him; and the petition was read, and referred to the Committee on Finance.

Mr. SANFORD presented the petition of Michael Hogan, of New York city, representing that early in the month of February, 1813, a valuable house belonging to him in the village of Utica, was taken possession of by a detachment of United States' troops, on their march from Buffalo to Sackett's Harbor, and by them used as a barrack, and praying redress for damages sustained in consequence thereof, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. SANFORD, from the committee to whom was referred the joint resolution directing the

publication of the Journal and proceedings of the Convention which formed the Constitution of the United States, reported it with amendments; which were read.

The Senate adjourned to Monday morning.

MONDAY, January 19.

The PRESIDENT communicated a letter from Julie Plantou, proposing to sell to Congress an allegorical painting, of her own design and from her own pencil, drawn from the Treaty of Ghent, commemorative of the glory which it shed around the American name; and the letter was read, and referred to the Committee on Commerce and Manufactures.

Mr. BARBOUR submitted the following motion for consideration:

*Resolved*, That the Committee on Naval Affairs be instructed to inquire into the expediency of establishing naval depots, in such numbers, and such places, as may in their opinion, be most advantageous to the United States.

Mr. MACON laid before the Senate the instructions of the Legislature of the State of North Carolina to their Senators in Congress, to endeavor to obtain an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States; which were read, and referred to the committee to whom was referred, on the 24th December, 1817, the resolution proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress and the appointment of Electors of President and Vice President of the United States; to consider and report thereon.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom was referred the bill, entitled "An act making further provision for repairing the public buildings," reported it without amendment.

Mr. BURRILL presented the memorial of the officers and soldiers of the late Rhode Island brigade of the Revolutionary Army, their heirs and representatives, praying relief as stated in the memorial; which was read, and referred to the Committee on Military Affairs.

Mr. WILSON, from the Committee on the Post Office and Post Roads, to whom was referred the petition of Alan Farquhar, made report, together with the following resolution:

*Resolved*, That the prayer of the petitioner ought not to be granted.

The report and resolution were read.

Mr. NOBLE submitted the following motion for consideration:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from Centerville to Jacksonborough, in the State of Indiana.

Mr. RUGGLES submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be

instructed to inquire into the expediency of providing by law for the sale of so much of the tract of one hundred thousand acres of land, granted as a donation to actual settlers in the Ohio company's purchase as shall not have been conveyed agreeably to the terms of the grant.

Mr. MORRIL presented the petition of Thomas Wright, who served as a soldier in the Revolutionary War, praying relief, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. DICKERSON presented the memorial of Isaac Briggs, praying certain allowances in the settlement of his accounts, as stated in the memorial; which was read, and referred to the Committee of Claims.

Mr. MORRIL asked and obtained leave to bring in a resolution, providing for the distribution of the sixth volume of the laws of the United States among the members of the present Congress, and to the delegates of Congress; and the resolution was read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 14th instant, for instructing the Committee on the Judiciary to inquire into the expediency of allowing to the judge of the sixth circuit court of the United States a certain compensation for having performed the duties of the judge of the district court of South Carolina. This motion was opposed by Mr. SMITH, of South Carolina, at some length, and supported earnestly by Mr. FROMENTIN, and also briefly by Mr. DAGGETT. Mr. SMITH, however, afterwards withdrew his opposition to the motion, and it was agreed to.

The Senate resumed the consideration of the motion of the 14th instant for requesting information relating to the reservation of certain sections of land, for the purpose of laying out and establishing towns thereon; and the same having been amended, was agreed to, as follows:

*Resolved*, That the President of the United States be requested to inform the Senate what measures have been taken, in pursuance of so much of the act, entitled "An act to authorize the appointment of a surveyor for the lands in the northern part of the Mississippi Territory, and the sale of certain lands therein described," passed the 3d of March, 1817, as relates to the reservation of certain sections, for the purpose of laying out and establishing towns thereon.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Rees Hill; and in concurrence therewith the petitioner had leave to withdraw his papers.

The bill to divide the State of Pennsylvania into two judicial districts was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution, directing the publication of the journal and proceedings of the Convention which formed the Constitution of the United States, together with the amendments reported thereto by the select committee; and the amendments having been

agreed to with an amendment, the PRESIDENT reported the resolution to the House amended accordingly; and the amendments having been concurred in, the resolution was ordered to be engrossed and read a third time.

Mr. WILLIAMS, from the Committee on Military Affairs, to whom was referred the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," reported it with amendments; which were read. [The principal and only material amendment proposed by the committee limits the benefit of the act to such as served to the end of the war on Continental establishment.]

The Senate then resumed the consideration of the bill to allow John Thompson interest on a Revolutionary claim heretofore granted and paid to him by our Government.

After considerable discussion, in which Mr. BARBOUR and Mr. ROBERTS supported, and Mr. DAGGETT and Mr. BACON opposed the bill, the question was taken on ordering the bill to a third reading, and decided in the negative.

So the bill was rejected.

The PRESIDENT communicated a report of the Commissioners of the Navy Pension Fund, containing statements in relation to that fund, made in obedience to the "Act for the better government of the Navy of the United States;" and the report was read.

Mr. TAIT, from the select committee to whom the subject was committed, reported the bill making an appropriation for repairing, and keeping in repair, certain roads, with an amendment, (including that part of the road leading from Columbia, in Tennessee, by the Choctaw agency, to Madisonville, in Louisiana, which lies between the southern boundary of Tennessee and the Indian boundary line near Zadock Brasher's, in Mississippi.)

TUESDAY, January 20.

Mr. ROBERTS presented the memorial of John Keemle, late surgeon in the *flying camp* army of the Revolution, praying relief, as stated in the memorial; which was read, and referred to the Committee on Military Affairs.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom the subject was referred, reported a bill concerning the district of Brunswick, in the State of Georgia; and the bill was read, and passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of John Peters and Sabin Pond, made report, together with the following resolution:

*Resolved*, That the petitioners have leave to withdraw their petition.

The report and resolution were read.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom the subject was referred, reported a bill directing the manner of appointing Indian agents, and continuing the

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"Act for establishing trading houses with the Indian tribes."

[This bill provides that the Superintendent of Indian Trade, and agents and assistant agents for Indian affairs, be hereafter appointed by nomination to the Senate, and requires of each of those officers bond, with two securities, in the sum of \$10,000, for the faithful discharge of their respective duties.]

The bill was passed to a second reading.

The resolution directing the publication and distribution of the journal and proceedings of the Convention which formed the present Constitution of the United States, was read a third time, the blank filled with *one thousand*, and the resolution was passed.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the petition of Ephraim Shaler, De Lafayette Wilcox, and Alphonso Wetmore, first lieutenants of the sixth regiment United States infantry, made report, together with the following resolution:

*Resolved*, That the petitioners have leave to withdraw their petition.

The report and resolution were read.

Mr. TAIT submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of repealing the third section of an act, passed on the third day of March last past, entitled "An act to establish a separate Territorial government for the eastern part of the Mississippi Territory;" and of investing the Legislature of the Alabama Territory with power to regulate the Judiciary thereof, in such manner as it may deem expedient; and also of investing the highest grade of courts which may be established by the said Legislature with jurisdiction in all cases in which the United States shall be a party.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to divide the State of Pennsylvania into two judicial districts; and the further consideration thereof was postponed until Friday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making further provision for repairing the public buildings;" and no amendment having been offered thereto, the PRESIDENT reported the bill to the House, and it was ordered to a third reading.

The Senate resumed the consideration of the motion of the 19th instant, for instructing the Committee on the Post Office and Post Roads to inquire into the expediency of establishing a certain post route; and agreed thereto.

The Senate resumed the consideration of the motion of the 19th instant, for instructing the Committee on Naval Affairs to inquire into the expediency of establishing naval depots; and agreed thereto.

The resolution providing for the distribution of the sixth volume of the Laws of the United States among the members of the present Congress and Delegates of Territories who have not been supplied therewith, was read the second time.

The Senate resumed the consideration of the motion of the 12th instant, for instructing the Committee on Public Lands to inquire into the expediency of providing for the sale of land granted as a donation to actual settlers in the Ohio Company's purchase; and agreed thereto.

The Senate resumed the consideration of the report of the Committee on the Post Office and Post Roads, to whom was referred the petition of Alan Farquhar, and, in concurrence therewith, resolved that the prayer of the petitioner ought not to be granted.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," together with the amendments reported thereto by the Committee on Military Affairs; and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act in addition to an act making appropriation for repairing certain roads therein described," together with the amendment reported thereto by the select committee; and, on motion by Mr. LEAKE, the further consideration thereof was postponed until to-morrow.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of Representatives of the United States:*

The claim of the representatives of the late Caron de Beaumarchais having been recommended to the favorable consideration of the Legislature by my predecessor, in his Message to Congress of the 31st January last, and concurring in the sentiments therein expressed, I now transmit copies of a new representation relative to it, received by the Secretary of State from the Minister of France, and of a correspondence on the subject between the Minister of the United States at Paris and the Duke of Richelieu, enclosed with that representation.

JAMES MONROE.

WASHINGTON, January 12, 1818.

The Message and accompanying documents were read.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom was referred the letter from Julie Plantou to the President of the Senate, proposing to sell to the United States an allegorical painting of the Treaty of Ghent, made report:

That, in the opinion of the committee, it is not expedient to purchase said painting for the United States.

The report was read.

WEDNESDAY, January 21.

The PRESIDENT communicated a letter from the Secretary of the Navy Department, transmitting, for the use of the members of the Senate, forty-two copies of the Naval Register for the year 1818, prepared in obedience to the resolution of December 13, 1815; and the letter was read.

Mr. NOBLE presented the petition of Loring A. Walder and others, praying the establishment

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## Naval Discipline.

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of a post office in the town of Jacksonborough, Wayne county, State of Indiana, for reasons stated in the petition; which was read, and referred to the Committee on the Post Office and Post Roads.

Mr. WILLIAMS, of Tennessee, submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to inform the Senate in what manner the troops in the service of the United States now operating against the Seminole tribe of Indians have been subsisted, whether by contract or otherwise, and whether they have been furnished regularly with rations.

Mr. DICKERSON presented the petition of Joshua Swain, and others, inhabitants of the county of Cape May, praying that a certain district of country, therein described, be made a port of entry; and the petition was read, and referred to the Committee of Commerce and Manufactures.

Mr. BARBOUR presented the petition of John Thompson, praying an allowance of interest on a sum of money which was found due to him on the books of the Treasury Department, by the accounting officers thereof; as stated in the petition; which was read. Whereupon, Mr. BARBOUR gave notice, agreeably to the joint rule, that, after the expiration of ten days, he should ask leave to bring in a bill in addition to an act for the relief of John Thompson.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of John Peters and Sabin Pond; and the further consideration thereof was postponed until Monday next.

The Senate took up and concurred in the report of the Committee of Pensions unfavorable to the petition of Ephraim Shaler, De La Fayette Wilcox, and Alphonso Wetmore, first lieutenants of the sixth regiment United States infantry, stating that, during the late war, while engaged in action with the enemy, they received several severe wounds, which occasioned to each the loss of an arm; that the loss and wounds subject them to daily pain and inconvenience, although the performance of their duty as officers of the Army has not been suspended on that account since their wounds healed; and soliciting the aid of Congress, so far as to confer on them a compensation equal to their sufferings and expense, by granting to them pensions from the date of their several wounds.

The Senate resumed the consideration of the report of the Committee of Commerce and Manufactures, to whom was referred a letter from Julie Plantou, to the President of the Senate, proposing to sell to the United States an allegorical painting of the Treaty of Ghent; and agreed thereto.

The Senate resumed the consideration of the motion of the 20th instant, for instructing the Committee on the Judiciary to inquire into the expediency of amending the bill, entitled "An act to establish a separate Territorial government for the Eastern part of the Mississippi Territory; and agreed thereto.

The PRESIDENT communicated a letter from JAMES FRISK, notifying the resignation of his seat in the Senate; which was read.

On motion, by Mr. FROMENTIN, the President was requested to notify the Executive of the State of Vermont of this resignation.

The bill concerning the district of Brunswick, in the State of Georgia, was read the second time.

The bill directing the manner of appointing Indian agents, and continuing the act for establishing trading-houses with the Indian tribes, was read the second time.

The bill entitled "An act making further provision for repairing the public buildings," was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution providing for the distribution of certain laws; and it was referred to the Committee on the Judiciary.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army," together with the amendments thereto by the Committee on Military Affairs; and the further consideration thereof was postponed until Wednesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act in addition to an act making appropriation for repairing certain roads therein described," together with the amendment reported thereto by the select committee, which was disagreed to; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the military service of the United States for the year 1818," and also a bill, entitled "An act making appropriations for the payment of the arrearages which have been incurred for the support of the Military Establishment, previous to the first of January, 1817;" in which bills they request the concurrence of the Senate.

The two bills last mentioned were read, and severally passed to the second reading.

On motion, by Mr. MORROW, the Committee on the Public Lands were instructed to inquire whether provision ought not to be made, to limit and control the issue and location of certificates for lands in lieu of those injured by earthquakes, in the county of New Madrid, in the Territory of Missouri.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom the subject was referred, reported a bill to incorporate the Mechanic Relief Society of Alexandria; and the bill was read, and passed to the second reading.

## NAVAL DISCIPLINE.

Mr. TAFT, from the Committee on Naval Affairs, to whom have been referred the memorial of certain commissioned officers of the Navy, under the rank of commanders, and also the memorial of certain officers of the Marine Corps attached to the Mediterranean squadron, made a report, which was read, and, with the accompa-

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nying documents, ordered to be printed for the use of the Senate. The report is as follows :

The Committee on Naval Affairs, to whom have been referred the memorial of certain commissioned officers of the Navy, under the rank of commanders, and also the memorial of certain officers of the Marine Corps attached to the Mediterranean squadron, have had the same under consideration, and report :

That your committee, duly impressed with the importance and delicacy of the subjects referred to them, and anxious to pursue that course which will best comport with the good of the public service and the high duties of the Senate, have given the several memorialists all the consideration to which they are entitled.

The memorialists of the Navy and Marine Corps pray that the Senate would institute an inquiry into the proceedings of two naval courts martial, had in the Mediterranean, in the early part of the last year. They complain that those proceedings were such as to impair their confidence in the tribunals which have been established by the laws of the country for the protection of the rights of all who are connected with the Naval Establishment.

The memorialists of the Marine Corps pray that their rights may be guarded by a special act of the Legislature, "or that the rules and regulations for the better government of the Navy be more strictly carried into execution."

Your committee sincerely regret that any circumstances should have occurred which have caused discontents among any portion of the officers of the United States Navy. They have indulged the hope that the high reputation and renown which had been acquired by the Naval Establishment of this country in war, would be cherished and sedulously guarded in the season of peace by every officer of the corps. It is only by a correct deportment, by a rigid discharge of duty, and a strict observance of the laws, that their well-earned fame can be preserved. If these observations are correct, as it regards the individuals, officers of the Navy, they must strongly apply to their tribunals. If naval courts martial, or courts of inquiry, have become so negligent, or so partial and unfaithful in the discharge of their duties, that those who look to them for protection can no longer confide in them, but must resort in the language of the memorialists, for safety "to those arms with which their country has intrusted them, or to that strength with which nature has endowed them," then, indeed, there is most serious cause of alarm. But your committee do not believe that this is the condition and character of your naval tribunals. They have heretofore been unimpeached. Under their administration the American Navy has attained a character, both at home and abroad, of which the nation is justly proud. In the instances complained of, there may have been some ground for criticism; the proceedings may have been such as not to give entire satisfaction to all; but your committee are decidedly of the opinion that whatever may be the character of the proceedings of the courts martial under consideration, they are beyond the control of the Senate. It has no power that can reach these cases. It has none other than legislative power touching these matters, which in its nature cannot be retrospective. The corrective in such cases is confided by the institutions of the country to the Chief Magistrate, and to that department of the Government would their complaints, perhaps, have been most properly addressed.

There is another view of the subject to which the committee have not been inattentive. It has been considered a fit occasion to look into the laws governing the Navy, in order to discover whether any defects exist which may require legislative correction. Your committee have done so, and, on examination, are of opinion that no legislative proceedings are necessary at this time. The rules and regulations for the government of the Navy, now in force, are those under which it has grown up and acquired a reputation for discipline and efficiency, which your committee believe is not surpassed by any similar establishment. In this state of things, they are of opinion that the causes of complaint, if any, are not in the laws, but in the administration of the laws. As it regards the marines, a description of force most necessary and useful, and which merits the fostering and protecting care of the Government, the committee, on examination, find that they are subject to do duty afloat and on shore, as the Executive, at his discretion, may direct; and that they are "governed by the same rules and articles of war, as are prescribed for the Military Establishment, and by the rules for the regulation of the Navy, heretofore, or which shall be established by law, according to the nature of the service in which they shall be employed." The committee know no footing more proper on which to place the marines than that on which the law has already placed them. Were new rules now to be prescribed for their government and protection, it is believed that none other ought to be prescribed than those which now exist. Your committee therefore repeat, that in their opinion, the defect, if any, is not in the law, but in its execution. Viewing, then, the subjects referred to them in all their bearings, feeling the danger of affecting that discipline which is the vital principle of all military establishments; while they would frown with indignation on every act which savored of oppression, or of maladministration, your committee respectfully submit the following resolution :

*Resolved*, That the Committee on Naval Affairs be discharged from the further consideration of the memorial of the naval officers of the Mediterranean squadron, under the rank of commanders, and of the memorial of the officers of the Marine Corps, of date the 17th of January, 1817.

*Documents accompanying the report of the Committee on Naval Affairs, in the case of Commodore Perry and Captain Heath.*

The memorial of the commissioned officers (of the Mediterranean squadron) under the rank of commanders, to the honorable the Senate of the United States, dated Port Mahon, January 20, 1817.

The undersigned, officers holding commissions in the Navy of the United States, beg leave most respectfully to state to the honorable the Senate of the United States, that, having entered the service early in life, from motives of love of their country, respect for its naval character, and a sincere wish to become useful, they would willingly encounter dangers of any kind, or endure any hardships which the good of the service or the preservation of discipline may make necessary; that, together with a willingness to risk their lives and sacrifice their comforts, they have heretofore felt a firm reliance on the protection which the well-digested laws of their country were intended, by the framers and enactors of them, to afford to officers of every grade, against the wanton exercise of that power



which all military establishments must place in the hands of the superior over the subaltern. Guarding with cautious jealousy their reputation, and their rights against all assaults, which have not been designated by the law for the guardianship and arbitration of the most respectable of all tribunals, (a court martial,) they have witnessed, with the deepest regret, the proceedings on a late transaction which has been brought to the decision of a court composed of the eldest officers of this squadron, of officers who, from their rank in service, we had hoped would have proved as jealous guardians of our rights as of their own. We beg leave, respectfully, to state the leading circumstances of this case. Captain John Heath, commanding the detachment of marines on board of the frigate *Java*, under the command of Oliver H. Perry, Esq., was so unfortunate as to incur the displeasure of his commander. The merits of the case between these two officers we do not presume to canvass; but we are imperiously called upon to notice the subsequent events. A court martial convened in the harbor of Mahon, on board the *Java*, on the 31st of December, 1816, for the trial of Captain Heath, on charges and specifications, of which the following is a copy:

"CHARGE 1. Disrespectful, insolent, and contemptuous conduct to me, his superior officer. Specification 1. That he did, on or about the 22d of July, 1816, on board of the United States frigate *Java*, then standing into the Bay of Naples, on being asked by me "why a certain marine was suffered to appear on deck in so filthy and dirty a dress?" reply to me in an insolent, disrespectful, and contemptuous manner. Specification 2. That he did, late in the evening of the 18th of September, 1816, on board the United States frigate *Java*, then at anchor in the harbor of Messina, cause a letter, written by himself, and couched in language highly improper to be used towards his commanding officer, to be left on my table, in the cabin of said ship. Specification 3. That he did, when sent for into the cabin, and asked "why he took such a time to write me a letter of that kind?" assume a deportment towards me highly provoking and disrespectful. The aforesaid charge and specifications being in violation of a part of the 15th article, and a part of the 13th article of the rules and regulations for the better government of the Navy of the United States.

"CHARGE 2. Neglect of duty and unofficer-like conduct. Specification 1. That, on or about the evening of the 16th of September, 1816, on board the United States ship *Java*, then at anchor in the harbor of Messina, he, the said Captain John Heath, did, on two marines jumping overboard to swim from the ship, neglect to come on deck, although called and informed of this circumstance, alleging as a reason therefor the subtlety of his being sick. Specification 2. That he did, when ordered by me, at said time and place, to come on deck and muster the marines, execute that duty in a careless and indifferent manner; and, when the marines were mustered, did neglect to report to me until called and directed so to do. Specification 3. That he did neglect, on the desertion of said marines from the ship, to take those immediate steps for their recovery that became him as commanding officer of the detachment to which they belonged, and were required by the urgency of the case. This charge and specification being in violation of a part of the 20th article and the 28th article of the rules and regulations for the better government of the Navy of the United States.

"CHARGE 3. Disobedience of orders. Specification. That he did, at the time and place referred to in the 3d specification of 1st charge, though repeatedly ordered to be silent, continue to speak, although warned of the consequences, and in the same indecorous and contemptuous manner as is therein alleged, thereby violating a part of the 14th article of the rules and regulations for the better government of the Navy of the United States.

O. H. PERRY.

"U. S. SHIP *JAVA*,

"ALGIERES BAY, October 14, 1816."

Of these charges and specifications it will be necessary to observe only, that the offence on which the greatest stress is laid, was committed, as the specification states, on the 22d of July, 1816; that Captain Heath was neither arrested, suspended, nor warned that notice would be taken of this offence; that on the 16th of September, 1816, Captain Heath is again supposed by Captain Perry to commit an offence, for which Captain Perry suspends him from the exercise of the duties of his office; that in the interval between the commission of these two offences, a general court martial convenes in the Bay of Naples, of which Captain Perry is president, and Captain Heath a member; that after Captain Heath had been suspended from duty two days, he addressed a note to Captain Perry, of which the following is a copy:

"U. S. FRIGATE *JAVA*,  
MESSINA, September 18, 1816.

"SIR: On the evening of the 16th instant I was ordered below by you from the quarter-deck of this ship, with these words, or to that effect, "I have no further use for your services on board this ship." I have waited until this moment to know why I have been thus treated; and, being ignorant of the causes, request my arrest and charges.

"Very respectfully, your obedient servant,

"JOHN HEATH, *Captain of Marines*."

The language of this note Captain Perry considered disrespectful, and summoned Captain Heath into his cabin. Willingly would your memorialists draw a veil over the transaction which then and there took place; most willingly would they bury in oblivion a transaction so disgraceful to the character of an American officer. But justice to themselves forbids it. It appears, by the statement of Captain Heath, and the acknowledgment of Captain Perry, that, after some conversation had passed, Captain Perry, from (as he says) "a disposition to chastise insolence on the spot," gave to Captain Heath a blow, and after having committed this outrage on his person, with much abusive language, ordered him to be confined to his room, and a sentinel placed over him; a measure which hitherto has been considered justifiable in extreme cases only. A little reflection convinced Captain Perry of the impropriety of his conduct, and alarmed him for its consequences; he accordingly, through the medium of another post captain and the first lieutenant of the *Java*, made an overture to Captain Heath of reconciliation, and through them tendered an apology, but insisted on terms of his own dictating. This, Captain Heath having a due regard for his own reputation, for the commission which he has the honor to hold, and for the respectability of his brother officers of the same rank, positively refused to accept, and in his turn preferred charges against Captain Perry. A court martial convened, and, as we have been unofficially informed, for the trial of both;

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but Captain Perry remained in the exercise of the functions of his office, while Captain Heath was in close confinement. Of the proceedings of this court your memorialists know but little; they have ere this, they presume, been laid before the honorable Secretary of the Navy. But they know that Captain Perry has sailed for the United States, in command of the *Java*, with the sanction of a court martial, and that of the Commander-in-chief, to support his conduct.

The undersigned have now no guarantee for the safety of their persons, but the use of those arms which the laws of their country have placed in their hands, and that personal strength with which nature has blessed them. To those means they must resort, and on them in future depend, unless the honorable the Senate, to whom they look with filial confidence, as the guardians of their rights, will, by a timely interference, save them from the disagreeable alternative of relinquishing a profession to which they are enthusiastically attached, or becoming in every instance the defenders, not only of their character but of their persons. Placed at a distance from their country, and without the immediate influence of its civil laws, your memorialists rely with confidence on the decisions of the high tribunal to which they now solemnly appeal. Your memorialists trust it will not engross too much of the valuable time of the Senate to institute an examination into the proceedings of this court in these two instances. They beg leave also to state, that a case occurred at Naples, in August last, between Captain J. O. Creighton and Midshipman Marston, of the *Washington*, the decision on which they also consider as tending to destroy the conviction which every officer ought to feel while in the execution of the duties of his office, that the strong arm of the law is extended over him, equally for his protection during good conduct, and for his punishment when he deviates from its rules. If your memorialists have erred in making this appeal, they hope it will be attributed rather to an exuberance than a deficiency of good feeling; and they trust they will ever be found ready to obey the call, and support the cause of their country, in any contest, however unpromising to themselves as individuals.

And your memorialists, as in duty bound, will ever pray.

Thomas Ap Catesby Jones, Lieut. Navy.  
W. B. Shubrick, Lieut. Navy.  
T. T. Auchmuty, Lieut. Marine Corps.  
Christopher Ford, Lieut. Marine Corps.  
George Pearce, Lieut. Navy.  
Beverly Kennon, Lieut. Navy.  
Samuel L. Breeze, Lieut. Navy.  
Thomas Nichols, Sailing Master.  
Robert F. Stockton, Lieut. Navy.  
Francis B. White, Lieut. Marines.  
Joseph L. Kuhn, Lieut. Marines.  
W. H. Watson, Lieut. Navy.  
Wm. H. Cocke, Lieut. Navy.  
H. B. Breckenridge, Capt. Marine Corps.  
B. Washington, Surgeon.  
Geo. B. English, Lieut. Marine Corps.  
James Armstrong, Lieut. Navy.  
George Beall, Purser.  
C. S. McCauley, Lieut. Navy.  
Hyde Ray, Surgeon.  
Chas. T. Stallings, Lieut. Navy.  
E. W. Turner, Purser.  
Joseph Cassin, Lieut. Navy.

Gustavus W. Spooner, Lieut. Navy.  
Robert S. Kearney, Surgeon.  
Wm. Hall, Capt. Marine Corps.  
John Harris, Lieut. Marines.  
Henry Olcott, Lieut. Marines.  
N. Webster, Lieut. Navy.  
S. H. Stringham, Lieut. Navy.  
W. K. Latimer, Lieut. Navy.  
L. Rousseau, Lieut. Navy.  
A. M. Montgomery, Acting Surgeon, Navy.  
Robert Field, Lieut. Navy.  
N. L. Montgomery, Lieut. Navy.  
M. D. Nicholson, Lieut. Navy.  
W. Laughton, Lieut. Navy.  
John Cadle, Acting Surgeon, Navy.  
John W. Peaco, Acting Surgeon, Navy.  
M. C. Attwood, Purser, Navy.  
J. L. Morris, Lieut. Navy.

*Memorial of the officers of the United States Marine Corps.*

The officers of the United States Marine Corps, in the Mediterranean, present the following memorial to the honorable Senate and House of Representatives of the United States, and pray that their situation on board ship, and the grievances herein complained of, may claim their serious attention.

The want of established rules and regulations for the Marine Corps, when stationed on board ship, and this difference of discipline in different vessels, have always been productive of serious ills, and have too frequently occasioned unavoidable and unhappy disturbances. The undersigned, therefore, do earnestly entreat, that rules and regulations be established by an act of Congress, wherein the duties of marine officers, when afloat, may be clearly and distinctly defined, and rights and privileges protected.

The undersigned regret the necessity under which they conceive themselves bound, by their duty to the service and themselves, of entreating the honorable Senate and House of Representatives, as the guardians and protectors of their rights, to examine the decision of a court martial held at Mahon, on Captain Oliver H. Perry, of the *Navy*, under the charges of outraging the rights, feelings, and person of the commanding officer of marines of the United States frigate *Java*, and pray that the protection of their rights and persons be guaranteed by some special act of Congress; or that the rules and regulations for the better government of the Navy be more strictly carried into execution.

John Hall, M. M. C.  
H. B. Breckenridge, Capt. Marines.  
Wm. Hall, Capt. Marines.  
Jn. L. Kuhn, Lieut. Marines.  
Henry Olcott, 1st Lieut. Marines.  
Francis B. White, 1st Lieut. Marines.  
Jn. Harris, 1st Lieut. Marines.  
R. T. Auchmuty, 2d Lieut. Marines.  
Christopher Ford, Lieut. Marines.

PORT MAHON, January 17, 1817.

U. S. SHIP WASHINGTON,  
Port Mahon, May 4, 1817.

SIR: I have the honor to transmit herewith an attested copy of a letter written to me by the captains and commanders of the squadron.

I fully concur with those gentlemen in opinion, and shall believe it my duty to comply with their request, so far as to permit the officers complained of to return

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to the United States, as soon as it can be done without injury to the public service.

I have the honor to be, &c.

I. CHAUNCEY.

Hon. BENJ. W. CROWNSHIELD,  
*Secretary of the Navy, Washington.*

PORT MAHON, May 4, 1817.

SIR: We, the undersigned, captains and commanders, serving in the squadron under your orders, have heard, with deep regret, that many of the lieutenants, and other commissioned officers, belonging to the vessels under our respective commands, have forwarded to the honorable the Senate of the United States, a memorial, which, in our opinion, is calculated to excite disaffection and insubordination in the Navy, and bring into contempt a service heretofore distinguished for its reputation, order, and good government.

The undersigned wish to be distinctly understood that it is not against petitioning the Legislature for a redress of real wrongs that we now protest, but against the manner, time, and object, of the memorialists, which, if truly represented to us, are as follow: They complain that they have been oppressed, and require that the thirtieth article of an act for the better government of the Navy should be revised, and so amended as to designate particularly the punishment of offenders; and it is believed that they even go so far as to threaten, that, should their imaginary grievances not be redressed, they will resort to their arms for protection. It is also understood that the memorialists have presumed to reflect on the members of two courts martial, composed of officers of long standing in the Navy, that their meetings have been held with apparent secrecy, and the memorial studiously withheld from their commanders, who would readily sanction any measure having for its object the good of the service. It cannot be denied that it is the bounden duty of officers, more especially when on a foreign station, to cultivate towards each other the most perfect harmony and good will; but it is the opinion of the undersigned, that the conduct of the memorialists is calculated to have a contrary effect. The undersigned are therefore impelled, by a sacred sense of duty we owe to our country and ourselves, to request that you will be pleased to remove all those officers from under our respective commands, as soon as the public service will admit of the same, as we cannot but consider the signers of the memorial as having forfeited all claims to our confidence, and their example as endangering the vessels intrusted to our charge.

We have the honor to be, very respectfully, sir, your obedient servants,

WILLIAM M. CRANE,  
J. ORDE CREIGHTON,  
GEORGE W. RODGERS,  
THOMAS GAMBLE,  
J. I. NICHOLSON,  
EDMOND P. KENNEDY.

ISAAC CHAUNCEY, Esq., *Commodore, &c.*

A true copy of the original on file.

Attest: J. WATSON, *Com. Clerk.*

U. S. SHIP WASHINGTON,  
*Port Mahon, May 5, 1817.*

THURSDAY, January 22.

The PRESIDENT communicated a report of the Secretary of the Treasury, prepared in obedience

to a resolution of the Senate of the 11th of December, 1817, relative to the progress which has been made in the settlement of public accounts, under the "Act to provide for the prompt settlement of public accounts;" and as to what further legal provisions may be necessary to insure the speedy settlement of those accounts; and the report was read.

Mr. WILLIAMS, from the Committee on Military Affairs, to whom was referred a resolution of the Senate, directing them to inquire into the expediency of providing by law for enforcing the attendance of witnesses before courts martial, made report; which was read.

Mr. RUGGLES submitted the following motion for consideration:

*Resolved*, That the Committee on the Public Lands be instructed to inquire into the expediency of passing a law, to vest, in the State of Ohio, the power of selling the remaining thirty-five sections of land, in the six miles reservation at the Scioto salt works, and applying the proceeds of the sale to such purposes, for the use of the State, as the Legislature thereof may think proper.

Mr. CAMPBELL presented the memorial of the judges of the circuit court of the United States, for the District of Columbia, praying an increase of salary, for reasons therein stated; and the memorial was read, and referred to the Committee on the Judiciary.

Mr. OTIS presented the memorial of Israel Thorndike, of Boston, formerly of Beverly, in the district of Massachusetts, praying the benefit of drawback on certain goods exported by him, as stated in the memorial; which was read, and referred to the Committee on Finance.

Mr. ROBERTS presented the memorial of William P. Farrand, and others, importing merchants of the city of Philadelphia, praying that some legislative provision may be made, whereby the importing merchants of that city may import merchandise into, or by way of a neighboring port, more especially New York or Baltimore, on giving bonds, with satisfactory sureties, for the payment of the duties in Philadelphia, for reasons stated in the memorial; which was read, and referred to the Committee on Finance.

Mr. SMITH presented the petition of Thomas Hall Jervey, surveyor of the port of Charleston, in the State of South Carolina, praying a proportion of the forfeiture of the privateer schooner *Lovely Cordelia*, arrested by him for a violation of the act interdicting the slave trade, and prosecuted to condemnation, as stated in the petition; which was read, and referred to the Committee on the Judiciary.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri," reported the same, with amendments; which were read.

Mr. CRITTENDEN, from the Committee on the Judiciary, who were instructed, by an order of the Senate, to inquire into the expediency of allowing to the judge of the sixth circuit court of

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the United States, a sum equal to the salary of the judge of the district court of South Carolina, for the term of one year, during which time the said circuit judge was compelled by law to perform the duties of the judge of said district court, made report, together with the following resolution:

*Resolved*, That no compensation in addition to his regular stated salary, ought to be allowed to the judge of the sixth circuit court of the United States, for any duties devolved upon, and performed by him in consequence of the disability of the district judge of South Carolina.

The report and resolution were read.

Mr. TICHENOR submitted the following motions for consideration:

*Resolved*, That the Military Committee be instructed to inquire into the expediency of repealing or modifying so much of the second section of the act establishing the Military Staff, as relates to hospital surgeons and hospital surgeons' mates, and to the appointment of judge advocates.

*Resolved*, That the Military Committee be instructed to inquire into the expediency of a reform, in the provisions of the laws, respecting the emoluments and allowances to the Military and Staff officers of the Army, in order to place them on a more economical establishment.

The Senate resumed the consideration of the motion of the 21st instant, for requesting information in what manner the troops in the service of the United States, now operating against the Seminole tribe of Indians, have been subsisted; and agreed thereto.

The bill to incorporate the Mechanic Relief Society of Alexandria, was read the second time.

The bill, entitled "An act making appropriations for the payment of the arrearages which have been incurred for the support of the Military Establishment previous to the first of January, 1817," was read the second time, and referred to the Committee on Finance.

The bill, entitled "An act making appropriations for the military service of the United States, for the year 1818," was read the second time, and referred to the same committee.

The Senate resumed, as in Committee of the Whole, the consideration of the bill concerning the district of Brunswick, in the State of Georgia; and the further consideration thereof was postponed until Saturday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill directing the manner of appointing Indian agents, and continuing the act for establishing trading-houses with the Indian tribes; and the further consideration thereof was postponed until to-morrow.

On motion by Mr. WILLIAMS, of Mississippi, the report of the commissioners on claims to land in the district West of Pearl river; and also the register of claims to lands in the district East of Pearl river, was referred to the Committee on Public Lands, to consider and report thereon.

The bill, entitled "An act in addition to an act making appropriation for repairing certain roads

therein described," was read a third time, and the blanks were filled each with "five thousand." The bill was then passed.

FRIDAY, January 23.

Mr. FROMENTIN presented the memorial of Jairus Loomis and James Bassett, sailing-masters in the Navy of the United States, praying a portion of the value of the articles captured in a negro fort on the river Appalachicola, which was destroyed by two gun vessels under their command, as stated in the memorial; which was read, and referred to the Committee on Naval Affairs.

Mr. WILLIAMS, of Tennessee, from the Committee on Naval Affairs, to whom was referred the petition of John Keemle, made report, together with the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition.

The report and resolution were read.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Joseph Forrest, made report, together with the following resolution:

*Resolved*, That the prayer of the petitioner ought not to be granted.

The report and resolution were read.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Isaac Briggs, made report; which was read.

He also reported a bill for the relief of Isaac Briggs; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the motion of the 22d instant, for instructing the Committee on Public Lands to inquire into the expediency of vesting in the State of Ohio the power of selling the remaining thirty-five sections of land, in the six miles reservation at the Scioto salt works, and agreed thereto.

The Senate resumed the consideration of the motions of the 22d instant, for instructing the Committee on Military Affairs, in relation to the military staff officers of the Army; and the further consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the report of the Committee on the Judiciary, in relation to an allowance of compensation to the judge of the sixth circuit court of the United States; and the further consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the report of the Committee on Military Affairs, who were instructed to inquire into the expediency of providing, by law, for enforcing the attendance of witnesses before courts martial; and, an amendment having been proposed thereto by Mr. WILLIAMS, of Tennessee, the further consideration thereof was postponed until next Monday week.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to divide the State of Pennsylvania into two judicial districts; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to incorporate the Mechanic Relief Society of Alexandria; and on motion by Mr. BERRILL, the bill was re-committed to the Committee on the District of Columbia, with instructions to report a clause limiting the amount of real and personal property which may be holden by the society, and restraining said society from entering into any banking or commercial operations; and also that it contain a provision that Congress may, at any time, alter or repeal this act.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom was referred the last mentioned bill, reported the same, with an amendment; which was read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill directing the manner of appointing Indian agents, and continuing the act for establishing trading-houses with the Indian tribes; and, the bill having been amended, the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri," together with the amendments reported thereto by the Committee on Public Lands. The amendments having been agreed to, the PRESIDENT reported the bill to the House accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill was read a third time as amended.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petitions of Joseph Cumming, administrator of James Murren, and Samuel Parker, executor of George Parker, deceased, made report, together with the following resolution:

*Resolved*, That the prayer of the petitioners ought not to be granted.

The report and resolution were read.

The Senate adjourned to Monday morning.

#### MONDAY, January 26.

The PRESIDENT communicated a report of the Secretary for the Department of War, comprehending contracts made by that Department in the year 1817, and those made by the Purchasing and Ordnance departments, for the same period, in compliance with "An act concerning public contracts," passed April 21, 1808; and the report was read.

The Senate resumed the consideration of the motions of the 22d instant, for instructing the Committee on Military Affairs to inquire into the expediency of repealing or modifying so much of the act establishing the military staff as relates to hospital surgeons and hospital surgeons' mates; and of a reform in the provisions of the laws, respecting the emoluments and allowances to the military and staff officers of the Army, in order to place them on a more economical establishment, and agreed thereto.

Mr. TAYLOR presented the petition of Thomas Golden, and others, praying the grant of a certain fractional section of land on the west fork of White river, to include the falls on said river, with a sufficient title, to John Allen and James G. Read, for the purpose of erecting mills thereon, for reasons stated in the petition; which was read, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the report of the Committee on Military Affairs, to whom was referred the petition of John Keemle, and in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee on the Judiciary, who were instructed to inquire into the expediency of allowing to the judge of the sixth circuit court of the United States, a sum equal to the salary of the judge of the district court of South Carolina, for the term of one year, during which time the said circuit judge was compelled by law to perform the duties of the judge of said district court; and, on motion by Mr. SMITH, the further consideration thereof was postponed until Wednesday next.

Mr. GOLDSBOROUGH submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to cause a statement of expenditures upon the public buildings, and an account of their progress, to be annually laid before Congress at the commencement of each session.

The Senate resumed the consideration of the report of the Committee on Naval Affairs, on the memorial of certain commissioned officers of the Navy, under the rank of commanders; and also the memorial of certain officers of the Marine Corps attached to the Mediterranean squadron; and the further consideration thereof was postponed until Wednesday next.

The bill for the relief of Isaac Briggs was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill directing the manner of appointing Indian agents, and continuing the "Act for establishing trading-houses with the Indian tribes;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill concerning the district of Brunswick, in the State of Georgia; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, the bill was ordered to be engrossed, and read a third time.

Mr. DAGGETT presented the petition of Martin Warner, of Derby, in the State of Connecticut, praying an allowance of bounty on a certain fishing voyage, as stated in the petition; which was read, and referred to the Committee on Commerce and Manufactures.

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Whole, the consideration of the bill to divide the State of Pennsylvania into two judicial districts; and the bill having been amended, the further consideration thereof was postponed until to-morrow.

Mr. SANFORD presented the petition of Timothy Rossiter and others, who served as officers and soldiers during the Revolutionary war, as therein stated, praying relief; and the petition was read.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Joseph Forrest; and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to incorporate the Mechanic Relief Society of Alexandria, together with the amendment reported thereto by the Committee on the District of Columbia; and the amendment having been agreed to, the PRESIDENT reported the bill to the House accordingly; and the amendment being concurred in, the bill was ordered to be engrossed, and read a third time.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petitions of Joseph Cumming, administrator of James Murren, and Samuel Parker, executor of George Parker, deceased; and, in concurrence therewith, resolved that the prayer of the petitioners ought not to be granted.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of John Peters and Sabin Pond.

On motion, by Mr. ROBERTS, to amend the resolution, by striking out after the word "That," to the end thereof, and inserting, "a bill be reported, authorizing the petitioners to have the benefit of a hearing before the Secretary of the Treasury, in the same manner as if a condemnation of their property had not occurred, so far as respects the moiety of the forfeiture vested in the United States," it was determined in the negative—yeas 8, nays 25, as follows:

YEAS—Messrs. Ashmun, Burrill, Daggett, Hunter, King, Morrill, Otis, and Roberts.

NAYS—Messrs. Campbell, Crittenden, Dickerson, Eppes, Fromentin, Gaillard, Goldsborough, Horsey, Leake, Macon, Morrow, Ruggles, Sanford, Smith, Stokes, Storer, Tait, Talbot, Taylor, Tichenor, Troup, Van Dyke, Williams of Mississippi, Williams of Tennessee, and Wilson.

And, in concurrence with the report, it was resolved that the petitioners have leave to withdraw their petition.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to supply vacancies under commissions of bankruptcy," in which bill they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An

act for the relief of John Anderson;" and, on motion by Mr. DAGGETT, the further consideration thereof was postponed until this day two weeks.

TUESDAY, January 27.

Mr. TAIT, from the Committee on Naval Affairs, reported a bill in addition to an act giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States; and the bill was read, and passed to the second reading.

Mr. TAYLOR presented the petition of Jeremiah Gregory and others, praying to be permitted to purchase the public lands on which they live, and which they have improved, at the price fixed by law; and the petition was read, and referred to the Committee on Public Lands.

Mr. TAYLOR also presented the petition of the executrix and executors of Touissant Dubois, deceased, praying to be permitted to locate claims of land, which have been confirmed, on such parts of the reserve tract as may be vacant; and the petition was read, and referred to the same committee.

Mr. NOBLE presented the petition of Hugh May, of Indiana, late an ensign in the United States Army, praying reimbursement of expenses attending the prosecution of a suit instituted against him by a recruit under his command, who was liberated on a writ of habeas corpus, as stated in the petition; which was read, and referred to the Secretary of the Treasury.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Joseph Forrest; and the consideration thereof was further postponed until Friday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Isaac Briggs; and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it was ordered to be engrossed, and read a third time.

The bill, entitled "An act to supply vacancies under commissions of bankruptcy," was read the second time, and referred to the Committee on the Judiciary.

The bill, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri," was read a third time as amended, and passed with amendments.

On motion by Mr. CAMPBELL, the Committee on Finance, to whom was referred the petition of William G. Ridgely, of Georgetown, in the District of Columbia, were discharged from the further consideration thereof, and it was referred to the Committee on Commerce and Manufactures.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred a statement from the Treasury Department, showing the amount of duty which accrued on salt imported during the years 1815 and 1816, and from the 1st of January, to the 30th of June, 1817, together with the amount paid for bounty on pickled fish ex-



ported, and for allowances to vessels employed in the fisheries, during that period; with instructions to inquire into the expediency of repealing the law laying that duty, made report, together with the following resolution:

*Resolved*, That it is not expedient to repeal the law imposing a duty on salt.

The report and resolution were read.

Mr. TROUP gave notice that, to-morrow, he should ask leave to bring in a bill for the relief of Richard M. Johnson.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the petition of Jos. Bevan, of Georgia, made report, together with the following resolution:

*Resolved*, That the prayer of the petitioner ought not to be granted.

The report and resolution were read.

Mr. MORROW, from the Committee on Public Lands, to whom was referred a resolution, directing "that the Commissioner of the General Land Office furnish each soldier who may receive a patent for military bounty land, a description of the quality of his lot, as minutely in the field notes of the surveyor," made a report thereon; which was read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to divide the State of Pennsylvania into two judicial districts; and the bill having been further amended, on motion by Mr. DAGGETT, the further consideration thereof was postponed until to-morrow.

Mr. TALBOT submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of so far changing the present judicial system of the United States, as to provide for the gradual diminution of the number of the judges who at present compose the Supreme Court, for restricting the functions and duties of the judges of that court, to the holding the sessions thereof, and the other duties incidental thereto; of establishing and organizing a circuit court in each of the United States in which a circuit court has not heretofore been established, and of providing for the appointment of a competent number of circuit judges for the holding the circuit courts of the United States.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom the subject was referred, reported a bill to alter and amend an act, approved the 3d day of March, 1817, entitled "An act to establish a separate Territorial government for the eastern part of the Mississippi Territory;" and the bill was read, and passed to the second reading.

Mr. OTIS submitted the following motion for consideration:

*Resolved*, That the Committee of Claims be instructed to inquire into the expediency of providing for the examination and allowance of moneys paid by the State of Massachusetts for the supplies and services of the militia of that State employed during the late war, in the common defence, so far as the same may be due upon principles of equity and justice.

The Senate then adjourned.

WEDNESDAY, January 28.

Mr. TAYLOR presented the petition of Abraham Wiseman, and others, of the State of Indiana, praying permission to alter their entries of lands, which have been erroneously marked; and the petition was read, and referred to the Committee on Public Lands.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom the subject was referred, reported a bill to increase the salaries of the judges of the circuit court for the District of Columbia; and the bill was read, and passed to the second reading.

Mr. DICKERSON, from the Committee to whom was referred the resolution proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States, reported the same, with the following amendment: "Strike out the whole of the resolution after the enacting clause, and, insert in lieu thereof, the following:

"That the following amendment to the Constitution of the United States be proposed to the Legislatures of the several States, which, when ratified by the Legislatures of three-fourths of the States, shall be valid, to all intents and purposes, as a part of the said Constitution—

"That, for the purpose of choosing Representatives in the Congress of the United States, each State shall, by its Legislature, be divided into a number of districts, equal to the number of Representatives to which such State may be entitled. The districts shall be formed of contiguous territory, and contain, as nearly as may be, an equal number of persons, entitled by the Constitution to be represented. In each district the persons qualified to vote shall choose one Representative. That, for the purpose of choosing Electors of President and Vice President of the United States, the persons qualified to vote for Representatives in each district shall choose one Elector. The two additional Electors, to which each State is entitled, shall be appointed in such manner as the Legislature thereof may direct. The Electors, when convened, at the time and place prescribed by law, for the purpose of voting for President and Vice President of the United States, shall have power, in case any of them shall fail to attend, to choose an Elector, or Electors, in place of him or them so failing to attend. The division of States into districts, as hereby provided for, shall take place immediately after this amendment shall be adopted; and afterwards, whenever a census shall be taken, and an apportionment of Representatives under it shall be made; and the same shall not be altered, until a subsequent census shall have been taken, and an apportionment of Representatives under it shall have been made."

Mr. ASHMUN submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of providing for the security of passengers in stage coaches, in which the mail of the United States may be transported, against danger arising from gross negligence of proprietors and drivers.

Mr. CAMPBELL, from the Committee on Fi-

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nance, to whom was referred the bill, entitled "An act making appropriations for the payment of arrearages which have been incurred for the support of the Military Establishment, previous to the first of January, one thousand eight hundred and seventeen," reported the same with an amendment, which was read; and the bill was considered as in Committee of the Whole; and the amendment having been agreed to, the PRESIDENT reported the bill to the House accordingly; and the amendment being concurred in, the amendment was ordered to be engrossed, and the bill was read a third time as amended.

The engrossed bill concerning the district of Brunswick, in the State of Georgia, was read a third time, and passed.

The engrossed bill to incorporate the Mechanic Relief Society of Alexandria, was read a third time, the blank being filled with "forty thousand dollars," and passed.

The engrossed bill directing the manner of appointing Indian agents, and continuing the act for establishing trading-houses with the Indian tribes, was read a third time; the blank was filled first, with "first of April next;" second, with "first of March, 1819," and the bill was passed.

The bill for the relief of Isaac Briggs was read a third time, and passed.

The Senate resumed the consideration of the report of the Committee on Naval Affairs, to whom was referred the memorial of certain commissioned officers of the Navy, under the rank of commanders; and also the memorial of certain officers of the Marine Corps, attached to the Mediterranean squadron; and, on motion by Mr. BARBOUR, the consideration thereof was further postponed, until next Monday week.

The Senate resumed the report of the Committee on the Judiciary, who were instructed to inquire into the expediency of allowing to the judge of the sixth circuit court of the United States a certain salary, for having performed the duties of the judge of the district court of South Carolina; and the consideration thereof was further postponed until Wednesday next.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred a statement from the Treasury Department, showing the amount of duty which accrued on salt imported during the years 1815 and 1816, and from the 1st of January, to the 30th June, 1817; together with the amount paid for bounty on pickled fish exported, and for allowances to vessels employed in the fisheries during that period, with instructions to inquire into the expediency of repealing the law laying that duty; and the further consideration thereof was postponed until to-morrow.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the petition of Joseph Bevan of Georgia, and, in concurrence therewith, resolved that the prayer of the petition ought not to be granted.

The Senate resumed the consideration of the motion of the twenty-seventh instant, for instruct-

ing the Committee on the Judiciary to inquire into the expediency of changing the present judicial system of the United States; which being amended, was agreed to, as follows:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of so far changing the present judicial system of the United States, as to provide for the gradual diminution of the judges who at present compose the Supreme Court; for the restricting the functions and duties of the judges of that court to the holding the sessions thereof, and the other duties incidental thereto; of establishing and organizing a circuit court in each State in the Union, in which a circuit court has not heretofore been established; and of providing for the appointment of a competent number of circuit judges for the holding the circuit courts of the United States.

The Senate resumed the consideration of the motion, of the 26th instant, for requesting a statement of expenditures upon the public buildings, and an account of their progress, to be annually laid before Congress, at the commencement of each session; and agreed thereto.

The Senate resumed the consideration of the motion of the 27th instant, for instructing the Committee of Claims to inquire into the expediency of providing for the examination and allowance of moneys paid by the State of Massachusetts, for the supplies and services of the militia of that State; and the further consideration thereof was postponed until Friday next.

The bill, in addition to an act, giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States, was read the second time.

The bill to alter and amend an act approved the 3d day of March, 1817, entitled "An act to establish a separate Territorial government for the eastern part of the Mississippi Territory," was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to divide the State of Pennsylvania into two judicial districts; and the bill having been further amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," together with the amendments reported thereto by the Committee on Military Affairs; and the consideration thereof was further postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution directing that the Commissioner of the General Land Office furnish to each soldier who may receive a patent for military bounty land, a description of the quality of his lot, as minuted on the field notes of the surveyor; and no amendment having been made thereto, the PRESIDENT reported it to

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the House; and on the question, "Shall this resolution be engrossed and read a third time?" it was determined in the negative.

THURSDAY, January 29.

The PRESIDENT communicated the report of the Secretary for the Department of War, exhibiting the names of the clerks employed in the several offices attached to that Department, and the sum given to each for the year 1817; and the report was read.

Mr. SMITH presented the memorial of John Hall, late a major in the Marine Corps of the United States, praying relief in the settlement of his accounts, in consequence of his having been robbed of a certain sum of money, as stated in the memorial; which was read, and referred to the Committee of Claims.

On motion by Mr. WILLIAMS, of Mississippi, the Message of the President of the United States, communicated the 20th instant, respecting the claim of the heirs of Caron de Beaumarchais, together with the accompanying documents, was referred to the Committee on Finance.

The Senate resumed the consideration of the motion of the 28th instant, for instructing the Committee on the Judiciary to inquire into the expediency of providing for the security of passengers in stage coaches; which, being amended, was agreed to as follows:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of providing for the security of passengers in stage coaches, in which the mail of the United States may be transported, against danger arising from gross negligence of proprietors and drivers.

The Senate resumed the report of the Committee on Finance relative to the duty on salt; and the consideration thereof was further postponed until Monday next.

The bill to increase the salaries of the judges of the circuit court for the District of Columbia, was read the second time.

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The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain officers and soldiers of the Revolutionary army," together with the amendments reported thereto by the Committee on Military Affairs.

Mr. KING took a comprehensive view of the principal features of the bill, stated his objections to the provision it proposed for seamen, militia, &c., and concluded by moving that the bill be recommitted, and the committee instructed to amend the same, so as to confine its provisions to a grant of half pay for life to the surviving officers of the Revolutionary army on the Continental establishment, who served for three years, or until the end of the war, including those who were entitled, under any resolve of Congress, to half pay for life; the half pay so to be granted, to

be ascertained by the rank according to which the accounts of the respective officers were finally settled.

Mr. BARBOUR followed, and, after arguing at some length to show the impossibility of providing for all included in the bill, and the impracticability of discriminating between the different classes provided for, moved an indefinite postponement of the bill.

Mr. SMITH said, that, during the discussion of this question, the gentleman from Virginia, (Mr. BARBOUR,) and the gentleman from Massachusetts, (Mr. OTIS,) had contended for the first honors of the Revolution, in the acts of the rival compatriots, Mr. Henry and Mr. Adams. Mr. S. said, if South Carolina could not boast of having been first in the Revolution, he could confidently say she was not the least, nor yet the last. She had performed her ample share. But, if he was to decide to whom the first honor was due, he would say to that band of patriots, who, regardless of the consequences, entered the British ships in Boston harbor and threw the tea overboard. This was the first efficient operation, and posterity would look back upon it with grateful recollection.

Mr. S. said he was well aware of the disadvantages under which he should address the Senate, on the merits of the bill, and the amendment offered by the gentleman from New York, (Mr. KING;) as what he should urge, he plainly perceived, would be in direct opposition to the general sentiment that prevailed in the House, as he was decidedly opposed to the general principles of the bill, as well as to the amendment. If either ought to prevail, he would prefer the bill. The amendment, he thought, was entirely inadmissible. It had for its object a special provision for the officers of the Revolutionary army, in the Continental line, to the utter exclusion, not only of the soldiers of the army, but of the militia of every description; many of whom bore a distinguished part in the contest for the independence of this nation. The bill, as it came from the House of Representatives, was more liberal; it makes provision for the soldiers as well as officers; although it makes no provision for the militia, the bulwark of the nation. It also provides for the distressed seamen and marines of the Revolution. But, says the gentleman who offers this amendment, the seamen and marines, as well as their officers, were well provided for; they were entitled to the prize money. The naval force of the United States, at that time, was very inconsiderable. It consisted of two or three frigates, a few sloops, and a few privateers, which had to contend with one of the greatest maritime Powers in the world. The consequence of which was, instead of enriching themselves, most of them fell into the hands of the enemy, who threw them into prison-ships and dungeons, where many of them lingered out a miserable life, and perished. And such as did survive, with a few accidental exceptions, were left poor.

We are told we cannot provide for all, as the state of the Treasury will not admit of it; and

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the officers are to be selected as the only objects of the public bounty. And we are told as a reason for this preference, that something is due to the rank they hold in society, and that some distinction must be made between men. This is a language not known to our Constitution. It may do in private life, if a man is disposed to select his society; but, when we are called upon to legislate on the subject, we ought to know of no distinction. It is repugnant to the principles of our Government, and at war with good sense and public justice.

What is the object of this provision? Why, it is said, to relieve the indigent and necessitous; and our benevolence, our sympathies, and our gratitude, are called upon to prompt us to this duty. This is a strange sort of reasoning. Benevolence, sympathy, and gratitude, can draw no line between the officer and the soldier, when both have served their country, and both are indigent. The tide of pity swells as high for the sufferings of the indigent and necessitous soldier, as it can do for the indigent and necessitous officer, if we are really governed by pity. The morsel you intend to bestow will be as sweet to the one as it is to the other. Several gentlemen have told us we must wait, and feel our way; and if, in future, we should find we are able, then the soldiers might be provided for. If the principle is correct, and the claim is a just one, why not provide for both at the same time? This procrastinating, timid policy, which so lately brought this country to the brink of ruin, and from which you were roused by the people, is not so well suited to their genius. They are more magnanimous; and if there exists a debt of justice, or even a debt of gratitude, which their country is bound to discharge, they will submit to be taxed to enable the Government to pay it. The Government is now one hundred millions in debt, and because there is a little money in the Treasury, not immediately wanted, we are endeavoring to establish a pension system to get rid of it, and pave the way, when our debts become due, for laying another tax in the place of the one you have just repealed. Mr. S. was in favor of repealing the internal taxes. It was right to do so. But can we believe the public mind is prepared to pay a tax to maintain a pension system, because it is said that those officers cannot submit to any industrious pursuits for a living? There are thousands of poor who are unable to work that demand your attention in an equal degree. And are you prepared to put all your poor on the pension list?

It is said this is a just debt; that, under the confederated Government, Congress had engaged to make these officers half-pay for life; which they were induced to commute for five years' full pay; and that this five years' full pay was discharged in certificates, which fell a prey to speculation; and the Government ought to pay them over again. As respects those Revolutionary officers, the Government has acted with perfect good faith. It performed with fidelity all its engagements, as far as it had ever promised, or as

far as any hope or expectation had been raised or excited, and that at the earliest possible period within its power, after the conclusion of peace. It was well known that the United States had not the means of paying its army immediately at the close of a seven years' war, in gold or silver. But it is as well known that they did not pay that army in depreciated Continental money. That had gone to oblivion in the hands of those who had given support to the army. Their full pay for real service performed, as well as for five years' full pay after their service terminated, was liquidated and settled at the specie standard; and Government certificates given, which bore interest from the date; and the faith of the nation was most solemnly pledged to redeem them.

With this view the Government, among its earliest acts after the adoption of the Federal Constitution, established the funding system; and these very certificates were worth twenty-six shillings in the pound, and at that price this nation redeemed them. If there was a speculation, the Government had no hand in it. On the contrary, whilst it suffered every other species of public security to perish in the hands of the meritorious holder, it gave a distinguished sanction to these claims, and paid them with scrupulous punctuality. No speculations took place as regarded these certificates until after the funding system was established. These officers were then apprized of their rights, and if they did not think fit to protect them, the Government could not be blamed. Speculations did run high at that time, but the officers were not the victims of it; the soldiers were the persons who fell a sacrifice to its ravages. Many of these officers are honorable men, and stand superior to any such charge; yet it is a fact not to be denied, that many of them enriched themselves by speculating, in their turn, on the poor soldiers, in buying their certificates and land warrants at very reduced prices. It was not in the power of the Government, nor was it the duty of Government, to guard against the speculations that succeeded. It is a monster that pervades every quarter, and almost every department, and if it was the duty of Government to repair its ravages, the treasures of Peru would not be adequate to the demand.

But, Mr. S. said, upon the most mature consideration, he was opposed to both the bill and amendment in any form in which they could be presented. Because he believed no particular merit could be ascribed to any particular portion of the people of the United States, for services rendered during the Revolutionary war, in exclusion to any other portion who espoused that cause. It was as essential, and as indispensable, to the support and maintenance of that war, that many of your citizens should have been engaged in other spheres, and employed in other occupations, as it was that you should have had an army to fight your battles. And one could have been as well dispensed with as the other. This was not a war carried on in your enemy's country, nor were those officers and soldiers sent from home into a foreign country, where they alone

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were forced to fight your battles, and undergo the toils of war, without any regard. But this was a war of a very different character. This was a war brought by the enemy into your own country; a war brought to every man's door, and in which every man was obliged to take an active part in some shape or other. Yet every man could not be in the Army. This was a war of a different character from all other wars. It was a war for liberty and independence, in which every soul was engaged, and in which every one contributed, by every means in his power, or your independence would have failed, even if your army had been five times as strong as it was.

This was not a mercenary army; not one officer was there for the sake of money; but to do his duty. And it is to be recollected, on this occasion, as in the late war, there was a great solicitude for commissions. It was not only the post of honor, but often a place of safety. Other portions of your citizens were active in the public councils, without whose bold and high-toned measures, taken at the hazard of their lives and fortunes, your army would have sunk into insignificance. Whilst others, from a pure love for their country, fed and clothed your armies, supplied them with wagons and horses, and everything else which they could furnish for its use, without any compensation. By their means, and by their means alone, you were enabled to carry on a seven years' war, without money or credit; a thing unparalleled in the history of any other nation upon earth. They had the ostentatious show of being paid for it in Continental money; which fell dead in their hands, without a single effort on the part of the Government to redeem it. By your Continental money, thousands of the most devoted friends of the Revolution, who lived in affluence and comfort, sunk their whole fortunes in its cause, and are now living in penury and want, with no other consolation than that of dying poor in the cause of their country. They yielded to their misfortunes without a murmur, believing that all were bound to give their aid, and satisfied they had given their full portion. And, because they were not in the Continental army; they have no credit for all those sacrifices. Of what use could an army have been, if this aid had not been afforded, and in this particular way? for you had no other possible means of subsisting it. This was the very life and soul of the army, and the very life and soul of the cause in which they were employed. Without it your army could have done nothing, and you would yet have been under the British Government. It is a maxim brought from another science, which applies as well to governments as to individuals, that you ought to be just before you are liberal. Before you speak of liberality to the Continental officers, redeem your Continental money, and relieve that numerous class of men, widows, and orphans, on whom it has entailed so much misery and poverty. They have a strong claim upon your liberality, your gratitude, and your justice, although they do not assemble around you, in this Hall, as Belisarius, who is presented in your lob-

by, leaning on his staff, at the moment this subject is called up, as if your cool and impartial judgment stood in need of this artificial aid.

Several gentlemen have, with much confidence, asserted that we are exclusively indebted to the Continental army; that the civil and religious liberty we so pre-eminently enjoy, are the fruits of their toils. Mr. S. said, he was sensible of the great merit of that army; and believed they had done a great deal in the cause of liberty, yet, he had no hesitation in declaring, that they had not done more than they ought to have done; nor had they done more than fell to the lot of every American devoted to his country. That army did not meet the common foe, and repel him from your borders with its single army, and leave all the rest of the community at ease and security under its protecting banners. Gentlemen who believe so, if there any such, know but little of the character of the Revolutionary war, or the manner in which it was carried on, in the three Southern States of North Carolina, and Georgia. They are perfect strangers to the sufferings and privations, as well as the exertions and patriotism of the people of those States; not of such as belonged to the Continental army, during their worst times there was no such army there, but of the volunteers and patriots, who, inspired with an invincible love of liberty, were determined not to yield. All the Continental army was in the Northern States, even to the troops which had been raised in the Southern States, except a few who were occasionally sent, and who were defeated as soon as they came, and which gave no sort of security to the property, the persons, or the lives of the inhabitants.

Mr. S. said, it was impossible for gentlemen to know the character of that war in the South, unless they had been there to witness it, and he saw but one gentleman in the Senate, (Mr. Macon of North Carolina) besides himself, who had. All the rest were remote from the scene of action, or had since grown up. So it was in the House of Representatives, where this bill originated. Though much distinguished for their talents and worth, yet most of them also were remote, or have been born since that war commenced. Its true character can never be learned from history. The historian never has, nor never will, record many of the most striking events, which so much distinguished it from all other wars, and which so distinguished it as carried on in that section. The historian acquires his knowledge from sources, in most cases, as uninformed as himself, and often bestows the laurels on heroes who never fought the battles. He was not himself far enough advanced in life to bear an active part in the operations of the war, but was old enough to observe all the passing events, and had a perfect recollection of them.

All the Continental troops sent to the southward, previous to 1781, were totally defeated. General Lincoln lost several successive battles, and never gained one, and was, with his whole force, finally taken prisoner. General Gates, who succeeded him, shamefully fled at the fire of the

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first gun, and left the citizens to the mercy of the enemy. These successive defeats left the country entirely exposed. The British not only supported their whole army for two years, by plundering indiscriminately from all who refused to take protection, their cattle, their hogs, their sheep, their corn, rice, and forage of every kind, but they turned loose the savage Indians upon the defenceless frontiers, who butchered them without regard to age or sex. By these disasters, the Tory parties, that everywhere infested the country, became increased, and, with a fury more unrelenting, and no less savage than the Indians, plundered, burned, and murdered wherever they went; and the whole country became a perfect scene of internal warfare. They not only stole and plundered to supply the enemy, but wantonly burned and destroyed to distress the country; they waylaid and murdered the Whigs wherever they found them; sometimes murdered them amidst their families, with their wives and children around them, begging in vain for mercy. They burned up their houses and plantations, and with them everything that could give comfort or support to the distressed women and children, who were reduced to a morsel of bread, and very often could not get that. The British army pervaded the whole country, and, wherever they went, left destruction in their train. That whole country was a wide waste; nothing presented itself but ruins, poverty, and distress. The cultivation of the fields, in many places, was left entirely to the women and children. Plundered of every hog, horse, cow, and everything else for their support, many mothers and daughters, who had seen better times, were obliged to lay down their domestic employments, and go to the fields and work like slaves, without the aid of a horse to plough, to raise a little corn to subsist themselves and their little children; and very often even this hard-earned morsel was plundered from them, or destroyed by the enemy. This picture may appear to be exaggerated, but there are many who know it to be correct, and who remember it with bitter regret.

Whilst their women and children were left in this forlorn situation, the men sought their safety by embodying in such parties as circumstances would allow. If they could not collect a hundred, they could collect fifty, if not fifty, twenty, or ten, or five. Armed with their rifles, with more than veteran bravery, they hung upon the borders of the British army wherever they went; sometimes firing upon the whole army, or cutting off their foraging parties, and circumscribing their ravages, to their great annoyance; and they became the scourge of the Tories in all quarters. This was the foundation of that military force which proved so formidable to the British arms, and gave them the first check in the Southern States. After losing all hopes of any relief from the Continental army, they threw themselves under Campbell, Cleveland, Shelby, Hill, and others, without one Continental officer or soldier among them, and totally defeated Colonel Ferguson, the best partisan officer in the British army, at the

battle of King's Mountain. It was this character of men, who, under Colonel Pickens, as their commander, composed two-thirds of that inferior force, General Morgan's detachment, which completely defeated the British legions and infantry, under Colonel Tarleton, at the Cowpens; and this officer never had been defeated before.

Can it be said these men owe their independence to the Continental army, for whom you are now about to provide? Whether you consider them as patriots, or soldiers, or as sufferers or conquerors, they are entitled to as distinguished a rank as any portion of the Continental army during the Revolution. When these transactions were fresh, and their importance and worth well understood, there was a public opinion, competent to decide, that did them justice. But, when thirty-six years have elapsed, like everything else, not performed by great men, they are forgotten.

Gentlemen have spoken of the militia service as of very little importance during the war; and seem to exclude entirely from any merit all but the Continental army and its officers; and one gentleman has intimated they could not be trusted as regards their veracity and honor. Who fought your battles, sir, before you had a Continental army? Who fought your battles at Lexington, at Concord, and at Bunker's Hill, at the first dawn of the Revolution, that, like the electric spark, pervaded every rank, and gave a tone to the war that only ended with it? These warriors were your militia, collected upon the spur of the occasion, from their shops, and their domestic and rural pursuits; and, roused by the eloquent and immortal Warren, and his compatriots, they displayed an intrepidity not surpassed by your Continental army. Who fought and dispersed that numerous and formidable body of Tories, on Cape Fear, in North Carolina, who were corrupting the minds of all around them? It was the militia, collected upon a single day's notice, who, with their provisions and their blankets on their backs, marched to the scene of action, under General Caswell, with a promptness unknown to any but freemen, and defeated their enemy without the loss of a man, or without costing the Government a single farthing, and restored peace and order to that country for a long time after.

Who defended Charleston on the memorable 28th of June, 1775, before you had any Continental army there? Where the whole British fleet, consisting of two fifty gun ships, several frigates, and a number of smaller armed vessels, were repelled, and some of them burned. The enemy, after a battle of ten hours, were obliged to retire with great loss on their part, and very little on the part of the Americans. The inhabitants of that city contributed much to this defence, and, but for General Moultrie, the whole garrison would have been surrendered by General Lee, who was the superior officer, and who, it is to be recollected, was a Continental officer. Who composed the active corps under Sumter, Hampton, and Middleton? Those gallant men were inferior to none, and did more good than all the



Continental soldiers you ever had there. Yet there was not a Continental soldier among them; nor does one of them come within the provisions of this bill. Marion raised his men within the British lines; their food was what they could catch, the earth was their bed, and the heavens their covering, and the swamps and marshes were their strong-hold. These men were in this service for more than a year; they fought more battles, gained more victories, killed more British and Tories, in proportion to their own number, than any other class of men upon the continent; and gave more relief to the Americans, and more annoyance to the enemy. These brave fellows never cost their country so much as a single charge of powder; they furnished even their own arms, and they used them like heroes. "These were times that tried men's souls." The Government gave them no pay, and they are excluded from its bounty by the bill before you. These men are not indebted to the Continental army for their independence.

In the two celebrated battles of Guilford and Eutaw Springs, under General Greene, a considerable part of his men were militia. Although there were Continental troops among them that distinguished themselves with great bravery, yet the number was very small; and the militia, and especially at Eutaw Springs, were not inferior to the Continental troops, and did more service. These were said to be the best fought battles during the war. While these scenes were going on in the Carolinas, Georgia, under Clarke, Williamson, and others, was a perfect scene of bloodshed. Notwithstanding all this, they are called ephemeral, and we are told the militia cannot be relied on either as respects their bravery or their honor. Sir, among these militia, there were men as honorable as ever breathed, and as brave as ever drew a sword. And the Government is as much indebted to them for their bravery, perseverance and sufferings, and owes them as much protection and support, as any portion of the Continental army.

The principle of gratitude has been strongly pressed. It is said we are reproached with ingratitude by the European nations. And what is it they have not said to reproach us? They have said we are barbarous, savage and ignorant; incapable of governing ourselves; that all Republican Governments have fallen; and that we have been ungrateful to our armies. And it was only since the late war, the common people of Europe knew we were white men. But, they have at last found out that we are not only white, but that our Government has some energy. And if they will compare what we have done for our army, with the condition of their own, they will find also that we are grateful. The Kings and Princes of Europe sometimes sell their armies to one another to fight their battles abroad—or they hire them for a job; and all that are not returned, are paid for at a stipulated price. The Hessian troops, attached to the British army during our Revolutionary war, were hired on these terms. However, if any are returned, that are worn

out in service, they are stowed into an hospital for the remainder of their days, but they get nothing else. If there is a favorite officer, he is converted into a lord, and a large pension is settled upon him, and his heirs; and the people are taxed to support them. It is the pensioner who complains of our ingratitude, and not the farmer and mechanic who pay the tax.

This Government gave to each Continental soldier, at the close of the war, his pay for services, and a valuable tract of land, which was giving him the best means in the world to enable him to live happy. It paid the Continental officers for all their services rendered, and five years' full pay after the war had ended; and gave each a large tract of land, which has been a fortune to all who took care of it, and their children after them. In addition to this, there has not been an office of honor or profit in the gift of the United States, or any individual State, which has not been filled by a Continental officer, if he asked for it. And the Government has given to every officer and soldier who has applied, a pension for life, if he had been wounded or disabled in the public service. Let the two be compared, and see on which side the gratitude preponderates, and then let us be told what the despots of Europe say.

Mr. S. said he knew it had become a little unfashionable to speak of the unconstitutionality of a measure. Precedents seem to be more relied upon than the Constitution for our guide. We are imitating the British Parliament, which Judge Blackstone says is omnipotent. They can do anything. They can regulate the succession to the throne. They can give themselves seats for seven years, when elected only for three years. And they can bestow pensions to any amount, and on whom they please; and they have done so, until the nation is sinking under the burden. And yet we are told by the gentleman from Louisiana (Mr. FROMENTIN) that we possess the same powers. One ground for shaking off that government was to get rid of pensions and placemen, and the power of their Parliament. We are the only nation in the world that has a written Constitution, in which all the powers of the Government are expressed and limited. If we err, this is our only standard to which we can recur for correction. But if you produce twenty precedents not in conformity to the Constitution, they cannot alter it; they will show with what familiarity the Constitution has been violated, yet the Constitution will remain the same, and ought to be again resorted to as the only correct guide. Of what avail is the Constitution, if precedent is to govern? Once establish the precedent, and you have no control over Congress but the discretion of its members; and, like the British Parliament, it will soon become omnipotent. If good feelings, as some gentlemen (Mr. OTIS and Mr. CHITTENDEN) have avowed, are to govern your Congress, they will soon become as omnipotent as the British Parliament, and your Government become bankrupt. One of these gentlemen (Mr. OTIS) avows he is governed by good feelings, and that this measure

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originated in good feelings. This, sir, is a miserable guide to a legislator. They are as changeable as any other human passion. It is only fit to be indulged in private life, where it is sometimes useful, and always amiable; but even there it has brought many a man to beggary; and if indulged by the Congress of the United States will soon beggar this nation. Your successors will have the same right to provide for their favorite objects; and when is this system to end? Never, as long as the members of Congress have friends to provide for. We know this passion is more predominant in the young and the gay. Why, then, has the Constitution provided that a member of the House of Representatives shall not be eligible to a seat until he is twenty-five years of age, a Senator thirty, and a President must be thirty-five? It was evidently that the nation might have the benefit of matured judgments and sound discretion to govern in your councils; that your measures might be maturely weighed and bottomed on the principles of esteemed justice, as the only correct standard of sound policy to govern in all cases, and in all times, instead of the good feelings the gentlemen speak of, and which are as fleeting as the winds.

Here is one fact not to be controverted: If you can give a pension to one man you can give it to another, without regard to his character; and if the Constitution does not authorize the power, you have nothing to predicate it on but prerogative. There can be but the two sources: one derived from the Constitution, which can be shown, if it exists; the other derived from prerogative, which is unknown to our Government, except in the modern doctrine of precedents, which is its foundation in all governments. The King of Great Britain has his prerogatives to a great extent, which have nothing but precedent for their origin, and are not even sanctioned by an act of Parliament at this day. So in this country, this prerogative has its origin in precedent, and is maintained upon precedent. And there is no reason why it should not, in a short time, become as formidable as the prerogative in England unless it is checked.

As an argument, it would appear, to avoid an inquiry into the propriety of this measure, we are told such a case can never happen again—that you can never have another Revolutionary war. Will not those brave men who fought your battles, and triumphed so gallantly over the enemy at Chippewa, Plattsburg, Erie, Champaign, Orleans, and on the seas, have the same claim upon their country some thirty-five years hence, when time shall have thrown a veil over all the minute circumstances, and it shall be forgotten that they retired from the army with reluctance, after being abundantly paid and abundantly honored?

Their claim will be as great, and the precedent you are about to make will be followed. One army you say gained your independence, and the other has given it a new character, and made it worth maintaining. They have released your country from its degraded state of impressments,

paper blockades, royal orders in council, and imperial decrees, and given it as high a grade in the scale of nations as your independence. This will be the beginning of a military pension system that posterity may regret.

All the despotisms of Europe have had their foundations in a claim to military merit. All their pensions and places originated in it. All the orders of knighthood and other distinctions now so oppressive; the feudal system, which so completely prostrated the civil liberty of all Europe, against which the wisdom of ages has not been able to prevail, originated in it. All their usurpations, and all their changes of empire, were commenced and supported by it. It was military fame that enabled Cromwell to turn out of doors a British Parliament, and assume the reins of government. It was military distinction that prompted Bonaparte, at the head of his army, to supersede the French Convention, and put himself upon the imperial throne, and devastate almost the whole of Europe. Your own Revolutionary officers, for some of whom you are now providing, at the close of the war associated themselves into a military order, and called it the *Cincinnati Society*, after the celebrated Roman General, Cincinnatus, who left his plough with regret, when called by his country to the head of the army; and after he conquered the enemy and returned in triumph, he laid down his office, and retired back to plough his fields at the age of eighty years. This society, too, made an early effort to perpetuate itself, and ordained that the son should succeed to the military honors of his father. However, it was frowned upon; and they soon found it too much of an exotic to flourish upon this soil, and the hereditary clause was abolished. This hereditary quality was not in conformity to their great prototype. He, with true Roman virtue, returned to perform the duties of a citizen, and maintained himself by the sweat of his brow, after he had laid down the pursuits of a soldier. It is difficult to imagine why our American officers and soldiers did not do so too. Many of them did, and are rich from their own industry. No country upon the globe ever presented more facilities than this. But the Roman virtue has lost its charms, and we are imitating nations nearer our own times. It is not the amount which this measure will cost the nation that is the most objectionable, but the abominable perpetual pension system that is to grow out of it. It may not be immediate; it is to come on gradually, as all other systems of oppression have done. And when we are gone to rest posterity will writhe beneath the yoke, borne down by hearth money, excises, and taxes, to support pensions and places—the curse of a nation.

Mr. GOLDSBOROUGH declared himself opposed to the indefinite postponement, and in favor of the motion of Mr. KING, with some modifications; to give time for which, he wished the postponement of the bill to Monday next, and that it be made the order for that day.

Mr. MORRIL said, he should not, at this late

hour, and advanced period of the debate at which he rose, detain the Senate with many remarks on the subject now under discussion.

The object suggested in the President's Message, said he, and that which is also contemplated in the bill from the House, is to afford relief, by pecuniary assistance, to surviving officers and soldiers of the Revolution, who are now in indigent circumstances. It is intimated that it is impossible to frame a bill which shall equitably meet the wants, relieve the necessities, and satisfy the expectations of this meritorious class of our fellow-citizens. I do believe, Mr. President, that the wisdom of Congress is competent to form a bill, the details of which shall meet all reasonable expectations on this subject. But as the merits of the bill are not immediately under discussion, I pass them to the motion which is directly before the Senate, that the further consideration of this subject be indefinitely postponed. To this motion, sir, I am opposed, and shall assign some reasons. To pass this resolution, would be, in effect, to put this subject at rest; if I may use the expression, to wink it out of sight. To this, Mr. President, I cannot give my assent. If we take a concise view of our country previous to the declaration of independence, and the trying scenes through which our fathers passed to gain and establish this independence, I presume we shall be fully satisfied, that the few remaining veterans of the Revolution, bowed down with infirmity and age, deserve the interposing hand of the National Government for their relief, for the mitigation of their wants in their declining years.

What, sir, was our situation antecedent to the bold assertion of our independence? We were an oppressed, insulted, degraded people. We were burdened with unjust acts and duties, too offensive, and unreasonable to be endured by a people sensible of their rights and privileges. We were invaded by an armed force. The same Power who we had reason to expect would, as a parent, protect our privileges, entered our harbors, blockaded our ports, landed an army on our shores, demolished and burnt our towns, and fought and killed our citizens. These events roused the spirit, called forth the energy, and marshalled the strength of the nation. This was a time that tried men's souls; this was the day in which the patriot and the hero distinguished himself from the sycophant of a deluded monarch. Independence was declared by a new Government, imperfectly organized. Now, sir, it needed the co-operation of the whole strength, patriotism, and energy, of the nation. The heroes of the country flew to arms; they ran to the field of battle; they met the invading foe, and repelled him with undaunted determination.

And what were the sacrifices of those who fought our battles, and achieved the numerous blessings which we enjoy? Many of us, Mr. President, who have seats in this House, who are participating the favors purchased by their toils, and basking in the beams of national glory, were too young minutely to recollect the distresses of

that day. Those who were of age, and were active on that memorable era, have informed us. History has not been silent on a subject so momentous.

Were I to endeavor, sir, to paint to you the sacrifices of those times, I should fail in the attempt. I will only say, they forsook every domestic accommodation; they left their homes and their families, and submitted the cultivation of their farms, in numerous instances to their wives, their little sons, and their daughters, who were under the necessity of laboring in the field to procure subsistence; while they endured the noisome camp, the fatigues of an army, and the dangers of battle. But, sir, their efforts were not unsuccessful; they disputed the ground at the cannon's mouth; they survived the mighty conflict; they obtained the ultimate object—national independence; and some of them now live to enjoy the fruit of their labor, though in indigence and want. These are the characters, Mr. President, whose necessities I wish to relieve. Providence has protracted their years; they are declining under the pressure of poverty and age; they are now petitioning you for assistance. Will you suffer the gray hairs of these veterans of the Revolution to come down with sorrow to the grave? They, sir, have a claim upon your benevolence and humanity—nay, more, your justice. Though some honorable gentlemen suggest that these Revolutionary patriots, having been well paid, have no claim upon the justice of Congress, I am inclined to think otherwise, because I conceive many of the infirmities under which they are now groaning, are in consequence of the privations and exposures endured while in the service of their country. In the camp and the field, their constitutions were broken down; the natural effects of which are, infirmity and distress in advanced years.

Permit me, Mr. President, to ask the honorable members of this Senate, if they are willing to see the warworn soldier of the Revolution hovering round their dwellings, round this Capitol, asking for a pittance, and not manifest a disposition to afford them that pecuniary assistance necessary to supply the cravings of nature, and repair their tattered garments? This is the only tribunal to which they can apply. Shall they seek in vain? Shall those who met the foe at Lexington, Bunker's Hill, Monmouth, and Bennington, supplicate your aid without success? No, sir; we, who possess the blessings procured by their sufferings, have too much magnanimity, too much humanity! They need assistance; they merit assistance. It is to the indigent that I would extend the hand of liberality. And, sir, so long as I have the honor of a seat in this House, I will exert my feeble powers for the mitigation of the necessities of those who, by their valor, toils, and blood, achieved the civil and religious privileges which we now enjoy.

Mr. MACON, of North Carolina, said, when he came to the Senate this morning, he had no intention or expectation of saying a word on this question, which had excited so much feeling. It

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seemed to him, that the friends of the bill founded their arguments entirely on feeling—a feeling, he was ready to acknowledge, of the most honorable kind; but he was not perfectly satisfied that it was proper to legislate on feeling alone. The Constitution certainly never intended it, or it would not have required a certain age for any appointment; nor did he believe the motion to postpone liable to the objection which had been made; that the friends of the bill were forced to defend it as it was, when they wished to amend it. The motion was agreed by all to be perfectly in order, and it only brought the principle of the bill into debate, which gave both sides the fairest opportunity to urge whatever they thought proper; and this he conceived ought to be the nature of every first discussion, especially when a great and important change was about to be made in the character of a long established law; the principles of which were settled by the Revolutionary Congress, and not attempted, he believed, to be changed before the present session. A debate like the present ought always to take place in every legislature, when motions which only contain first principles are under consideration, and cannot with propriety be omitted.

Mr. M. said he felt more than usual embarrassment in attempting to speak at this time, because there was reason to suppose that a great and decided majority was opposed to him, and it was not agreeable to speak to those who were prepared to vote, but it was all that a minority could do to state their opinions, and because, contrary to the practice of the Senate, two motions, distinct from each other, had been debated at the same time; that of the gentleman from New York (Mr. KING) to recommit the bill to the Military Committee, with instructions so to amend it, as only to include the officers who were in service at the end of the war, and that of the gentleman from Virginia (Mr. BARBOUR) to postpone the bill and motion to a day beyond the session. He would here say, that the observations of the gentleman from New York, in support of his motion, had not convinced him, that a discrimination such as he desired, or any other, could with justice or propriety be made. To discriminate in a satisfactory manner, at any time, or in any country, between those who were equally worthy, was a task not easily performed; that gentleman having failed to show that it could be done, as he with great deference verily believed, it might now be considered as utterly impossible, and would not, in his opinion, be attempted by any other.

Mr. President, when the character, numbers, and wealth of the British nation, to which may be added its constant preparation for war, are compared with the situation of the United States at the commencement of the Revolution, it must prove to all, that every whig in the country had as much as he could do to maintain the independence which the Congress of 1776 had manfully declared, to the joy of the nation, and which the whigs boldly determined to defend at the risk of their lives and their fortunes. It was the day that tried men's souls. The immortal words "Liberty

or Death," on the hunting shirt of every friend of the Revolution, contained nothing but the truth. The practice was according to the motto; but now, no matter what services may have been rendered, unless the persons who rendered them were in the regular army, they are not to receive a cent under the bill, though they may have paid many. The bill does not provide for one half who have equal merit; as to claim, there is none; and the motion of the gentleman from New York will leave a much greater number not provided for. No man can estimate higher than I do the worth and service of the Continental troops, but the fall of Charleston left none in the Southern States, and it is certainly true, that after that event the men commanded by Sumter, Marion, and Jackson, rendered as much service as any in the nation; in fact they had no superiors; they left their wives, their children, their homes and their all, to the rage of a victorious enemy, who was in pursuit of those he declared rebels, and enraged neighbors, in the most gloomy and disastrous period of the great struggle, to fight for their country, its liberty and independence. Nor is there any provision for that man, with his small band of warriors, who started with their parched corn on their backs, into the country, or rather wilderness, mostly inhabited by savages, and gained by their victories a country to the nation, out of which five large States will be added to the Union; indeed two are already added, and a third soon will be. It is scarcely necessary to state that General George R. Clark and his warriors are meant. Can justice, honor, generosity, or feeling, require that all these, together with the widows and children of those who were slain in battle, as well as the deranged officers mentioned by the gentleman from New York, should be taxed to support their fellow patriots, who were at that time, as far as respects the officers, in a more enviable situation? It is well known, that the deranged officers constantly complained of their being deranged, and that they preferred to have been continued in the service; many of them, not willing to stay at home, obtained commands in the militia, and in that way served the country. Nor ought it to be forgotten, that tents and all camp utensils were never plenty, and often scarce, and that the regulars were always first supplied with whatever could be furnished, and that too with the best there was; whatever was left, after furnishing the regulars, was divided among the militia, who were frequently without tents or camp utensils, unless they carried them from their homes, and in many parts of the Southern States these necessary articles were not abundant. In wet and stormy days it was not uncommon to see tents formed by two or three or more men putting together not their blankets, for but very few had them, but bed covers, which had been spun and wove at home; those who were not fortunate enough to carry anything of this kind, stood by trees with bark or whatever they could get to cover their heads to keep the rain off. The character the war then assumed, forbade any article necessary or conve-

nient to the soldier to be in plenty; there was nothing like it in any other part of the nation, if in the world. In calamity and fury it so far surpassed a common civil war, that the name is improper for it. He knew not by what name to call it, perhaps a domestic war would come nearer to it than any other. In the parts of the country where the Whigs and Tories were mixed, it was neighbor against neighbor, house against house, and neighborhood against neighborhood; destruction and death were the orders of the day; each party hunted the other, either alone or in numbers, as circumstances would permit—neither trouble nor pains were spared to destroy and kill. In many places, houses, fences, and everything necessary to support life, were burnt, leaving the women and children only with the clothes they had on, to depend on a more fortunate neighbor for sustenance and shelter. In some cases this was done, when the husband or son, or perhaps both, were confined in jail, because they were whigs; many plantations were left without stock of any kind, not a horse nor cow, in this forlorn condition to be cultivated by the women and children, who, if they were fortunate enough to gather a part of the corn they had labored to produce, were compelled to beat it in a mortar into meal, or carry it themselves to a mill to be ground, if one was left in the neighborhood. Places may yet be seen where houses were burnt, which yet remain not built on. The rich and the poor who survived, and who would not agree on any terms to remain neutral at home, when parts of the country were overrun by the enemy, shared nearly the same fate, left with nothing but life and liberty.

Many gallant actions were performed in this neighborhood war, which history will never record, and many gallant and patriotic men fell, whose names will in a little time be forgotten in this their beloved country, for which they freely shed their blood and lost their lives. Mebane and Kulp are of the number who were slain in these terrible conflicts, and are now almost forgotten. These engagements were generally fatal and sanguinary in proportion to the few that fought. With permission he would repeat that it could not be just or right to tax these people to give a pension to any, because they were in the regular army; it seemed like taxing the bones of the brave and the ashes of distress; the officers of the army, at the end of the war, received five years' full pay, and both officers and soldiers land from the United States; besides, every State which had back land unsettled, gave land to the same officers and soldiers, which were raised in the State. But it is said that the Continental troops were paid in depreciated certificates, not worth more than one-eighth of their value. This is undoubtedly true; yet they were considered to be more valuable than the State certificates, in which the others were paid. Certificates were then the only currency of the governments; they made all their payments in them. After the fall of the paper money, provisions for the army were frequently taken from families which could

not well spare them. Whenever necessity compelled this, Whig and Tory fared alike; but a certificate was the only payment. The depreciation was a national calamity, from which no one was exempt; it was as general as the liberty we now enjoy, and, though equally free, we are not now equally rich.

We have been frequently told that some of the officers and soldiers of the Continental army are poor. This no doubt was true. He also believed it was equally true that some of the troops which he had mentioned were equally so. This will be the case among every class of men; some will get rich, while others do not; there is a time to get and a time to spend; the industrious and careful will either get rich or comfortable, while those who are not so, will neither be rich nor comfortable. To undertake to provide for those who will not provide for themselves, will, on experiment, be found an endless task; it may suit other countries, but it does not this; it will drain any treasury, no matter how full, and, instead of repealing taxes, new ones ought to be imposed. Pass the bill, and the pension will not do those who do not provide for themselves as much good as it will others, who know their failings, and will take care to be with them when it shall be received. The gentleman from Maryland (Mr. GOLDSBOROUGH) wishes the bill to pass, to do away an opinion which had been entertained, that Republics were ungrateful; he did not state it to be his opinion. It was a pleasing fact that the history of the United States did, in the most satisfactory manner, prove that it was not true, as it regarded them, nor did he believe it, as it regarded others. It has been promulgated by the flatterers and sycophants of kings and despots, to become their favorites and pensioners, to live sumptuously on their folly or wickedness, or both, on the profits of the labor of those who were more virtuous and better than themselves. The opinion is founded in idleness and hatred to free Governments, where every man ought to live by the sweat of his own brow—where no man ought to be paid to do nothing. But, do as you will, the same class of people will entertain and promulgate the same opinion; and he was unwilling to attempt to do away the opinion by passing that which he conceived to be an improper and unjust act. He would add, that, in despotic Governments, to complain would be deemed a crime, and that the only liberty enjoyed was that of abusing Republics.

It has been said that the officers of the Revolutionary army would have been severely punished if the United States had been conquered. This, he believed, was not thought of at the time, because no Whig ever calculated on being conquered, and every one had determined not to be. But whether they would have been punished more severely than others, he did not know; all had committed openly what, in that case, would have been deemed treason. He, however, was of opinion that the most severe punishment would not have been inflicted on the army. The history of the times warranted the opinion. He

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rather thought it would have been inflicted on those daring patriots who were members of the first Congress, those who declared independence with the halter about their necks, and those who ordered an army to be raised. These are the men, he thought, on whom vengeance would have been taken. Permit me here, said Mr. M., to state what was certainly true, and that too in praise of a class of men who rarely received praise—that no class of men in the nation had more merit for the Revolution than the lawyers. Where he was acquainted, they were all Whigs; he did not at this moment recollect a single exception. They understood better than most others the rights and privileges of the then colonies, and exerted themselves, with advantage to the country and honor to themselves, to persuade others to examine and understand them; they succeeded, and we now enjoy the benefit. He hoped this digression would be pardoned; he had only given the well-merited praise. He would return to the subject. If the pensions are to be given, because the army deserved well of the country, and some of them are now poor, would it not follow that all who deserved well, and are now poor, ought to receive a pension? Would it not follow that if any members of the Congress he had mentioned, were now alive and poor, that they too, for the same cause, ought to have a pension? It would, he thought, be difficult to give a reason for one, which would not apply as forcibly to the other. The deserving well and being poor, would apply equally to both. He repeated that he wished it to be distinctly understood that he was not denying the worth or merit of the Revolutionary army. God forbid that he should; he never for a moment entertained a single sentiment that even tended toward its dishonor; but he was opposing the principles of the bill, and the motion to recommit, both of which he fully believed were against the principles which carried it into the field. Nor did he mean to class them with the seventeen hundred applicants for office in the late war, which had been mentioned. He, however, felt no hesitation to acknowledge that he approved their conduct; they did what at all times they ought to do—show a willingness to aid their country in defence of its just rights, and to take part in a war which had been emphatically called a second war for independence. Pass the bill, and it makes a precedent for the army engaged in that war and in every other. Precedent is now almost equal to the Constitution, and will probably, in a few years, be quite so. It does not require the gift of prophecy to foretell that thirty or forty years hence, as much may be said in favor of the army engaged in the second war for independence, as we have now heard about the first, though as much may not be said about the state of the country and of the sufferings of the people, because the facts will not warrant it. The troops, however, in the late war, in the uninhabited parts of the country, suffered greatly, and bore their sufferings manfully. The victories obtained by them have not been surpassed in any age or any

country; they were fully equal to those of Lexington and King's Mountain; but the men who fought these two glorious battles are not provided for in the bill, because they were militia.

It is not improper to observe, that pensions in all countries begin on a small scale, and are at first generally granted on proper considerations, and that they increase till at last they are granted as often on whim or caprice as for proper considerations. The bill is an entire departure from any principle heretofore established in this country; it requires little or no proof to get the pension, and it gives to all alike, without regard to disability or meritorious services. The history of the half-pay for life, and the commutation for it of five years' full pay, show as clear as daylight the opinion then entertained by the nation on the subject of pensions, and the bill as clearly shows how much that opinion has changed since, and that the opinion in favor of pensions is fast gaining ground. It seemed to him that it must operate on the mind like sweet poison does on the taste; it pleases at first, but kills at last. The objects to whom they are granted are only thought of at the time, without reflecting that a part of the money to pay them is to be taken from those who are not in a situation to spare it conveniently; the few rich are not apt to complain of taxes, especially if they believe they are intended to promote what they deem the glory and splendor of the country; they take a full share of that to themselves, and they can live well and pay the tax; but it is not so with the poor; every cent taken from him diminishes his comfort and lessens his independence. It is quite probable that some of the poor, who may contribute their mite to pay the pensions given by the bill, may have been reduced to poverty, by the enemy's burning and destroying their property, for fighting on the same side, and probably in the same battles with those who are to receive them. He would just remark, that he did not think this a proper place to speak of our charity at home. Charity is commendable in all men, it is enjoined on all men, but it ought to be so given as not to let one hand know what the other does. Beside, our private worth, whether for charity or any other virtue, is best known to our neighbors, who always duly appreciate it. He had heard so much said of the feelings of gentlemen on this interesting and important question, that he was almost induced to doubt whether he had as fine feelings as others. He, however, hoped he had, but others must judge, not himself; but, whether he had or not, he could not consent to gratify them at the expense of his judgment.

The old Congress is often praised and always deservedly; on the present occasion it would seem proper that their decision should have great weight, as they conducted the Revolution, raised the Army, and settled with it, and gave to each individual whatever was his due, under all the circumstances of his case. It may not be improper to state that that Congress only paid the Continental troops; the militia and State troops were paid by the States to which they belonged,



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and the States granted and paid them pensions till within a few years past, when the General Government assumed the pension list of each State, placing all the pensions granted for Revolutionary services on the same ground; and this policy, if the bill is to pass, ought now to be followed—that is, to place all having equal merit on the same ground.

The recommendation of this subject to the consideration of Congress by the President, who was a Revolutionary character, had been mentioned. This recommendation, like every other from the Executive, he felt it his duty to examine with deliberation, and treat with respect; he had, however, to regret that he could not agree to pass an act in conformity to it; the reasons for this he had endeavored to state; his regret, however, would be much greater, if all the preceding Presidents had not also have been Revolutionary characters; and he did not recollect at this time that any one of them had made a similar recommendation, though he had not examined their Messages to ascertain the fact, he spoke only from a momentary recollection of a memory not now very good; if the fact was, as he believed, no one could doubt but that one of them, General WASHINGTON, was as much attached to the Army as any man in the nation. He had thought proper to say this much to enable all to decide whether the national opinion was tending towards pensions or not.

As much had been said about our rich Treasury, and but few to provide for, he thought proper to state that neither of these facts had any weight with him; if justice required that the bill should pass, neither the condition of the Treasury nor the number to be provided for ought to be taken into consideration. As to the Treasury being rich, it had been more so some years past, but was emptied without the aid of such a bill as this.

He hoped the gentleman from New York would pardon him for saying, that, whether the national opinion was changing or not, he thought the vote on this motion, and that for passing the bill, would prove that the gentleman and himself were both a little out of fashion. He, however, believed that they would bear it as it became them, without grieving or complaining; each generation would govern itself, and they had had their day.

On the exertions of the Whigs in the Southern States, after the fall of Charleston and the sufferings of the people, he could, he was sure, speak a month, and not exhaust the subject. He had, however tired himself, and, he feared, fatigued, the Senate. He would, therefore, take his seat.

Mr. OTIS advocated the bill, and opposed the indefinite postponement; and, when he concluded, the Senate adjourned.

FRIDAY, January 30.

On motion by Mr. SANFORD, the report of the Secretary of the Treasury, communicated the 22d instant, and prepared in obedience to a resolution of the Senate of the 11th December, 1817,

relative to the expediency of further legislative provisions to expedite the settlement of public accounts, was referred to the Committee on Finance.

Mr. HONSEY presented the petition of John Stockton, Commissioner of Loans for the State of Delaware, praying an allowance for office rent; and the petition was read, and referred to the Committee of Claims.

The Senate resumed the report of the Committee of Claims, to whom was referred the petition of Joseph Forrest; and the consideration thereof was further postponed until Monday next.

The Senate resumed the motion of the 27th instant, for instructing the Committee of Claims to inquire into the expediency of providing for the examination and allowance of moneys paid by the State of Massachusetts, for the supplies and services of the militia of the State; and the consideration thereof was further postponed until Monday next.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with a resolution of the Senate of the 22d of this month, requesting to be informed, "In what manner the troops in the service of the United States, now operating against the Seminole tribe of Indians, have been subsisted, whether by contract, or otherwise, and whether they have been furnished regularly with rations," I now transmit a report from the Secretary of War, containing the information required.

JAMES MONROE.

WASHINGTON, January 28, 1818.

The Message and report therein mentioned were read.

Mr. WILSON submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate a statement of all the arms and accoutrements which have been manufactured at the different armories of the United States, with the cost of each stand, and the number delivered to each State respectively, under the act for arming the whole body of the militia.

The amendment to the bill, entitled "An act making appropriations for the payment of the arrearages which have been incurred for the support of the Military Establishment, previous to the first of January, 1817," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The bill to divide the State of Pennsylvania into two judicial districts, was read a third time; and, on motion, by Mr. CHITTENDEN, the further consideration thereof was postponed until Monday next.

Mr. RUGGLES gave notice that on Monday next he should ask leave to bring in a joint resolution providing for the distribution of the late edition of the land laws of the United States.

MONDAY, February 2.

The PRESIDENT communicated a report of the Secretary of the Treasury, to whom was referred

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the petition of Hugh May, of Indiana; and the report was read.

The PRESIDENT also communicated a report of the Secretary of the Treasury, exhibiting the sums respectively paid to each clerk in the several offices of that Department for services rendered during the year 1817, made in obedience to the provisions of the act of April 21st, 1806, to regulate and fix compensation of clerks; and the report was read.

Mr. GOLDSBOROUGH presented the memorial of Thomas Tenant and George Stiles, of the city of Baltimore, merchants and ship owners, praying that certificates of registry may be granted to two vessels belonging to them, as stated in the memorial; which was read, and referred to the Committee of Commerce and Manufactures.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to provide for delivering up persons held to labor or service in any of the States or Territories who shall escape into any other State or Territory;" and also, a bill, entitled "An act for the relief of Israel Smith;" in which bills they ask the concurrence of the Senate.

The two bills last mentioned were read, and passed to the second reading.

Mr. SANFORD, from the Committee of Commerce and Manufactures, to whom was referred the petition of William G. Ridgely, made a report, together with the following resolution:

"That the prayer of the petition be refused."

The report and resolution were read.

Mr. WILSON presented the memorial of Margaret White, widow of Colonel Anthony Walton White, praying reimbursement of moneys advanced for public purposes by her late husband, during the Revolutionary war, as stated in the memorial; which was read, and referred to the Committee of Claims.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the bill, entitled "An act making appropriations for the military service of the United States for the year 1818," reported the same with amendments; which were read.

On motion, by Mr. CAMPBELL, the Committee on Finance, to whom were referred the memorial of Paul Beck, jr., and Thomas Sparks, of the city of Philadelphia, manufacturers of shot; the petition of David Ames, and others, praying an additional duty on imported paper; the memorial of Samuel Campbell, and others, manufacturers and venders of American manufactured paper; and also the Message from the President of the United States, together with sundry documents in relation to the claim of the representatives of Caron De Beaumarchais, were discharged from the further consideration thereof respectively.

On motion, by Mr. GOLDSBOROUGH, the Message from the President of the United States, together with the accompanying documents in relation to the claim of the representatives of Caron De Beaumarchais, were referred to a select committee.

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tee; and Messrs. KING, MACON, CAMPBELL, BARBOUR, and DAGGETT, were appointed the committee.

Mr. BURRILL submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be instructed to report a bill for extending for the term of nine months, from the 1st day of March, A. D. 1818, the time limited for the exhibition of claims for certain land warrants described in the act, entitled "An act further extending the time for issuing and locating military land warrants, and for other purposes," passed April 16th, 1816.

Mr. CAMPBELL offered instructions from the Legislature of the State of Tennessee to use their exertions to procure the passage of an amendment to the Constitution of the United States, relative to the compensation of members of Congress; and moved that they be received and read; and, on motion, the further consideration thereof was postponed until to-morrow.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom was referred the bill, entitled "An act to incorporate the Columbian Insurance Company of Alexandria," reported the same, with amendments; which were read.

Mr. STORER submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to cause a statement of the progress made under the act to provide for surveying the coasts of the United States, passed February 10, 1807, and any subsequent acts on the same subject, to be laid before Congress.

Mr. MORROW, from the Committee on the Public Lands, to whom the subject was referred, reported a bill providing for the sale of certain lands in the district of Marietta, and for the location of claims and sale of certain lands in the district of Vincennes; and the bill was read, and passed to the second reading.

The blanks in the engrossed bill to divide the State of Pennsylvania into two judicial districts, it having been previously read a third time, were filled, and the bill was passed.

Ten days previous notice having been given, Mr. BARBOUR asked, and by consent of two-thirds of the Senators present, obtained leave to bring in a bill, in addition to the act, entitled "An act for the relief of John Thompson;" and the bill was read, and passed to the second reading.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, who were instructed, by a resolution of the Senate of the 14th of last month, to inquire whether any, and, if any, what further provisions by law are necessary to secure to the heirs of soldiers who died or who were killed in the service of their country, during the late war, the bounty in land to which they are equitably entitled, made report, together with the following resolution:

*Resolved*, That the committee be discharged from the further consideration of this subject.

Mr. BARBOUR gave notice, that to-morrow he should ask leave to bring in a bill, to amend the

several acts to promote the progress of useful arts.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States :*

In compliance with a resolution of the Senate of the 8th of last month, requesting me to cause to be laid before it, the proceedings which may have been had under "An act, entitled 'An act for the gradual increase of the Navy of the United States,' specifying the number of ships put on the stocks, and of what class; the quantity of materials procured for ship building, and also the sums of money which may have been paid out of the fund created by said act, and for what objects; and likewise, the contracts, which may have been entered into, in execution of the act aforesaid, on which moneys may not yet have been advanced; I now transmit a report of the Secretary of the Navy, accompanied by a report from the Board of Commissioners of the Navy, with documents which contain the information desired.

JAMES MONROE.

The Message and accompanying reports and documents were read.

The Senate resumed the motion of the 27th of last month, for instructing the Committee of Claims to inquire into the expediency of providing for the examination and allowance of moneys paid by the State of Massachusetts, for supplies and services of the militia of that State; and the consideration thereof was further postponed until Monday next.

The Senate resumed the consideration of the motion of the 30th of last month, requesting a statement to be laid before the Senate, of all the arms and accoutrements which have been manufactured at the different armories of the United States, with the cost of each stand, and the number delivered to each State respectively; and agreed thereto.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Joseph Forrest; and in concurrence therewith, resolved that the prayer of the petitioner ought not to be granted.

The Senate resumed the report of the Committee of Claims, to whom was referred the petition of Weaver Bennet; and, on motion, by Mr. BURRILL, the consideration thereof was further postponed until Monday the 16th of this month.

The Senate resumed the report of the Committee on Military Affairs, who were instructed by a resolution of the Senate to inquire into the expediency of providing, by law, for enforcing the attendance of witnesses before courts martial; and the consideration thereof was further postponed until Monday next.

The Senate resumed the report of the Committee on Finance, relative to the duty on salt; and the consideration thereof was further postponed until to-morrow.

On motion, by Mr. CAMPBELL the Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making appropriation for the military service of the United States for the year 1818," together with the

amendments reported thereto by the Committee on Military Affairs; and the blank therein being filled with "20,000," the amendments were agreed to; and the PRESIDENT reported the bill to the House amended accordingly; and the amendments having been concurred in, they were ordered to be engrossed and the bill was read a third time as amended.

Mr. DAGGETT submitted the following motion for consideration :

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of repealing or altering the law passed in 1812, establishing brevet rank in the Army of the United States.

TUESDAY, February 3.

Mr. RUGGLES presented the memorial of Thos. Rotch, on the subject of woollen manufactures, praying the protection of Congress; and the memorial was read, and referred to the Committee of Commerce and Manufactures.

Mr. TAYLOR presented the petition of Godfrey H. Belding, late a lieutenant in the Army of the United States, praying an increase of pension, for reasons stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. TAYLOR also presented the petition of Robert Sturges, stating that he had entered with the Register of the Land Office at Vincennes, a certain quarter section, which entry was changed by the Register of the said Land Office, without his knowledge or consent, and praying relief; and the memorial was read, and referred to the Secretary of the Treasury.

The amendments to the bill, entitled "An act making appropriations for the military service of the United States for the year 1818," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

Mr. RUGGLES asked and obtained leave to bring in a resolution relative to the distribution of the late edition of the land laws; and the resolution was read, and passed to the second reading.

Mr. CAMPBELL submitted the following motion for consideration :

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of establishing, by law, the salaries of Indian agents and assistant agents.

The Senate resumed the report of the Committee on Finance, relative to the duty on salt; and the further consideration thereof was further postponed until to-morrow.

The Senate resumed the consideration of the report of the Committee of Commerce and Manufactures, to whom was referred the petition of William G. Ridgely; and in concurrence therewith, resolved that the prayer of the petition be refused.

The Senate resumed the consideration of the report of the Committee on Military Affairs, who were instructed by a resolution of the Senate of the 14th of last month, "to inquire whether any, and, if any, what further provisions by law are

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necessary to secure to the heirs of soldiers, who died, or were killed in the service of their country, during the late war, the bounty in land to which they are equitably entitled;" and in concurrence therewith, the committee were discharged from the further consideration of this subject.

The Senate resumed the consideration of the motion, that the instructions from the Legislature of the State of Tennessee to their Senators, offered the 2d instant, be received and read; and, on motion by Mr. CAMPBELL, the further consideration thereof was postponed until Thursday next.

The Senate resumed the consideration of the motion of the 2d instant, for instructing the Committee on Public Lands to report a bill for extending the time limited for the exhibition of claims for certain land warrants; and the same being amended, was agreed to as follows:

*Resolved*, That the Committee on Public Lands be instructed to report a bill for extending, for the term of — from the first day of March, A. D., 1818, the time limited for the exhibition and location of claims for certain land warrants, described in the act, entitled "An act further extending the time for issuing and locating military land warrants, and for other purposes," passed April 16, 1816.

The Senate resumed the consideration of the motion of the 2d instant, for information of the progress made under the acts to provide for surveying the coast of the United States; and the same being amended, was agreed to as follows:

*Resolved*, That the President of the United States be requested to cause a statement of the progress made under the act to provide for surveying the coast of the United States, passed February 10th, 1807, and any subsequent acts on the same subject, and the expenses incurred thereby, to be laid before the Senate.

The Senate resumed the consideration of the motion of the 2d instant, for instructing the Committee on Military Affairs to inquire into the expediency of repealing or altering the law establishing brevet rank in the Army of the United States; and the same being amended, was agreed to as follows:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of repealing or altering the law, passed in 1812, establishing brevet rank in the Army of the United States; and also, whether any, and, if any, what change ought to be made in the present compensation allowed to officers in the line of the Army.

The bill, in addition to an act, entitled "An act for the relief of John Thompson," was read the second time.

The bill providing for the sale of certain lands in the district of Marietta, and for the location and sale of certain lands in the district of Vincennes, was read the second time.

The bill, entitled "An act to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory," was read the

second time, and referred to the Committee on the Judiciary.

The bill, entitled "An act for the relief of Israel Smith," was read the second time, and referred to the Committee of Claims.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," together with the amendments reported thereto by the Committee on Military Affairs; and the further consideration thereof was postponed until Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, in addition to an act, giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States; and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to alter and amend an act, approved the 3d day of March, 1817, entitled "An act to establish a separate Territorial government for the eastern part of the Mississippi Territory; and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution, proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States, together with the amendment reported thereto by the select committee; and on motion by Mr. DICKERSON, the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the salaries of the judges of the circuit court for the District of Columbia; and on motion by Mr. WILLIAMS, of Mississippi, the bill was recommitted to the Committee on the Judiciary, with instructions to inquire into the expediency of increasing the salaries of the judges of the United States courts, generally, and to report thereon.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Noah Miller;" and on motion by Mr. WILLIAMS, of Tennessee, the further consideration thereof was postponed until the first Monday in July next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to incorporate the Columbian Insurance Company of Alexandria," together with the amendments reported thereto by the Committee on the District of Columbia; and the amendments being agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments having been concurred in, they were ordered to be engrossed, and the bill was read a third time as amended.

On motion by Mr. CAMPBELL, the Committee on Finance, to whom was referred the memorial

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of William Lorman, and others, praying the adoption of some further measures to insure the collection of the revenue paying an ad valorem duty; and also the imposition of a duty upon all sales, by auctioneers, of dry goods, except such as belong to the estates of deceased persons or insolvents, were discharged from the further consideration thereof.

### WEDNESDAY, February 4.

The PRESIDENT communicated a report of the Postmaster General, containing a list of contracts made in the year 1817; and the report was read.

On motion by Mr. NOBLE, the petition of Hugh May, of Indiana, late an ensign in the United States' Army, together with the report of the Secretary of the Treasury thereon, with the accompanying documents, were referred to the Committee of Claims.

Mr. ASHMUN presented the petition of Vassel White, of Berkshire, Massachusetts, praying a pension for reasons stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. WILLIAMS, of Tennessee, submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate, a list of the names of the several agents of Indian affairs, and of the agents of Indian trading-houses, together with the pay and emoluments of each of said agents.

The Senate resumed the consideration of the motion of the 3d instant, for instructing the Committee on Military Affairs to inquire into the expediency of establishing, by law, the salaries of Indian agents and assistant agents; and agreed thereto.

The resolution relative to the distribution of the late edition of the land laws, was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, in addition to an act, giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

The amendments to the bill, entitled "An act to incorporate the Columbian Insurance Company of Alexandria," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The Senate resumed the report of the Committee on Finance, relative to the duty on salt; and, on motion, by Mr. WILLIAMS, of Mississippi, the consideration thereof was further postponed until this day two weeks.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to alter and amend an act, approved the 3d day of March, 1817, entitled "An act to establish a separate

Territorial government for the eastern part of the Mississippi Territory;" and the further consideration thereof was postponed until to-morrow.

The Senate resumed the report of the Committee on the Judiciary, relative to the salary of the judge of the sixth circuit court; and the consideration thereof was further postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill providing for the sale of certain lands in the district of Marietta, and for the location of claims and sale of certain lands in the district of Vincennes; and a blank therein having been filled, and no amendment having been proposed thereto, the PRESIDENT reported the bill to the House, and it was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, in addition to an act, entitled "An act for the relief of John Thompson;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it was ordered to be engrossed, and read a third time.

The PRESIDENT communicated a report of the Secretary of the Treasury, made in obedience to the "Act of March 3d, 1809, further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," containing the several statements thereby required; and the report was read.

### THURSDAY, February 5.

Mr. STOKES presented the representation and remonstrance of the Legislature of North Carolina, in relation to the grants of that State, of land within the State of Tennessee; which was read, and referred to the committee, to whom was referred on the 27th December, 1817, the bill to authorize the State of Tennessee to issue grants, and perfect titles on certain entries and locations of lands therein described.

Mr. ORIS presented the memorial of Moses Grant, and others, of Boston, praying an increase of the duties on imported paper hangings, for reasons stated in the memorial; which was read.

The Senate resumed the consideration of the motion of the 4th instant, for requesting the President of the United States to cause to be laid before the Senate a list of the names of the several agents of Indian affairs, and of the agents of Indian trading houses, together with their pay and emoluments; and agreed thereto.

A message from the House of Representatives informed the Senate that the House agree to the amendments of the Senate to the bill, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri," with amendments, in which they request the concurrence of the Senate. They disagree to the first amendment of the Senate to the bill, entitled "An act making appropriations for the military service of the United States for the year 1818;" they agree to the 2d and 4th amendments of the Senate to the same bill; and, they also

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agree to the third amendment of the Senate to the same bill, with amendments, in which they ask the concurrence of the Senate.

The Senate proceeded to consider their amendment to the bill last mentioned, disagreed to by the House of Representatives, together with the amendments of the House to their third amendment. Whereupon,

*Resolved*, That they insist on their first amendment disagreed to by the House of Representatives; and that they do concur in the amendments of the House of Representatives, to their third amendment to the same bill.

The Senate proceeded to consider the amendments of the House of Representatives to their amendments to the bill, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri." Whereupon,

*Resolved*, That they concur therein.

Mr. KROUP, having obtained leave, introduced a bill for the relief of R. M. Johnson, [to reimburse him certain money paid from his own resources for the use of the mounted regiment commanded by him during the war.] The bill was twice read, and committed.

The bill, in addition to an act, giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States, was read a third time, and passed.

The bill providing for the sale of certain lands in the district of Marietta, and for the location and sale of certain lands in the district of Vincennes, was read a third time, and passed.

The bill, in addition to an act, entitled "An act for the relief of John Thompson," was read a third time, and passed.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the petition of Elijah Rice, made report, together with the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition.

The report and resolution were read.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," together with the amendments reported thereto by the Committee on Military Affairs; and the consideration thereof was further postponed to, and made the order of the day for, Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to alter and amend an act, approved the third day of March, 1817, entitled "An act to establish a separate Territorial government for the eastern part of the Mississippi Territory;" and, the bill having been amended, on motion by Mr. DAGGETT, it was recommitted to the Committee on the Judiciary, further to consider and report thereon.

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The Senate resumed the consideration of the motion of the 2d instant, that the instructions from the Legislature of the State of Tennessee to their Senators, this day offered, be received and

read. Whereupon, Mr. CAMPBELL submitted the following motion:

*Resolved*, That the amendment to the Constitution of the United States, proposed by the Legislature of the State of Tennessee, and the instructions to the Senators and Representatives of that State, accompanying the same, be received and entered on the Journals.

Considerable debate took place on this motion. The objection to the proposition was, that the wishes of the State of Tennessee were not addressed to the Senate; and that the Senate had no concern with the instructions of any State to particular members of that body. In reply to which argument, it was said that the object of proposing an amendment to the Constitution was to bring it to the attention of Congress, and that it could not be presented to Congress as the act of that State in any other manner than that now proposed.

The question was finally decided in the affirmative—yeas 19, nays 14, as follows:

YEAS—Messrs. Barbour, Campbell, Crittenden, Dickerson, Eppes, Fromentin, Lacock, Leake, Macon, Morrow, Noble, Otis, Ruggles, Sanford, Stokes, Talbot, Taylor, Van Dyke, and Williams of Tennessee.

NAYS—Messrs. Ashmun, Burrill, Daggett, Gaillard, Goldsborough, Horsey, Hunter, King, Morril, Tait, Tichenor, Troup, Williams of Mississippi, and Wilson.

So it was determined that the following resolutions be received and entered:

"*Resolved*, By the General Assembly of the State of Tennessee, That the following amendment be proposed to the Constitution of the United States, to wit:

"That no law, varying the compensation of the members of the Congress of the United States, shall take effect, until the time for which the members of the House of Representatives of that Congress by which the law was passed shall have expired.

"*Resolved*, That our Senators be instructed, and our Representatives requested, to use their exertions to procure the passage of the foregoing amendment.

"*Resolved*, That the Governor of this State be requested to transmit copies of the foregoing resolutions to each of our Senators and Representatives in Congress, and that he also transmit to the Executives of the several States like copies, with a request to lay the same before the Legislatures thereof, soliciting their exertions and co-operation in procuring the said amendment to be adopted and made a part of the Constitution of the United States."

FRIDAY, February 6.

Mr. SANFORD, from the Committee of Commerce and Manufactures, to whom was referred the petition of Joshua Swain, and others, inhabitants of the county of Cape May, in the State of New Jersey, made report, together with the following resolution:

"That it is inexpedient to grant the prayer of the petition."

The report and resolution were read.

Mr. WILLIAMS, of Mississippi, submitted the following motion for consideration:

*Resolved*, That the Committee on the Public Lands



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be instructed to inquire into the expediency of providing, by law, for the reservation of such tracts of land within the several land districts of the United States as may, in the opinion of the President, be suitable sites for the laying out and establishing towns, and for the sales of the lots therein.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Elijah Rice; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution relative to the distribution of the late edition of the Land Laws; and, the resolution having been amended, the President reported it to the House accordingly; and, the amendments being concurred in, the resolution was ordered to be engrossed, and read a third time.

Mr. ORIS presented the memorial of Thomas B. Wait and Sons, praying that Congress would purchase an additional number of their edition of the State Papers, and authorize a subscription for the succeeding volumes of said work; also asking permission to print any confidential documents not heretofore published, and which may now appear without detriment to the public interest; and that said work may be revised and corrected under the authority of the Secretary of State; and the memorial was read, and referred to the Joint Library Committee.

Mr. MORROW submitted the following motion for consideration:

*Resolved*, That the committee appointed on the memorial of the State of Tennessee respecting claims to lands in that State, be instructed to inquire into the propriety of making a reservation of land for the establishment of a military depot, armory, and foundry, on the waters of Shoal creek, in the State of Tennessee.

Mr. WILLIAMS, of Tennessee, presented the petition of Frederick C. Warnack, agent for the heirs of his uncle, Frederick C. Warnack, deceased, who served as a lieutenant colonel of a corps of engineers in the Virginia line, during the Revolutionary war, and in consideration of his services was entitled, under the laws of the State of Virginia, to six thousand acres of land, which his heirs, being aliens, cannot inherit, and praying relief from Congress; and the petition was read, and referred to the Committee on Public Lands.

Mr. WILSON submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire whether any, and, if any, what amendments are necessary in the laws relative to the promulgation of the acts of Congress.

A message from the House of Representatives informed the Senate that the House insist on their disagreement to the first amendment, insisted on by the Senate to the bill, entitled "An act making appropriations for the military service of the United States, for the year 1818." They ask a conference thereon, and have appointed managers on their part.

On motion by Mr. CAMPBELL, the Senate agreed to the conference proposed on the disagreeing votes of the two Houses, on the amendment to the bill last mentioned; and Messrs. CAMPBELL, WILLIAMS, of Tennessee, and BARBOUR, were appointed the managers on the part of the Senate.

MONDAY, February 9.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom the subject was referred, reported a bill for the relief of Martin Warner; and the bill was read, and passed to the second reading.

Mr. GOLDSBOROUGH presented the memorial of Richard Frisby, praying compensation for property destroyed by the enemy during the late war with Great Britain, as stated in the memorial; which was read, and referred to the Committee of Claims.

Mr. GOLDSBOROUGH, from the committee to whom the subject was referred, reported a bill respecting the transportation of persons of color for sale, or to be held for labor; and the bill was read, and passed to the second reading.

The Senate resumed the report of the Committee on Naval Affairs, to whom was referred the memorial of certain officers of the Navy and of the marine corps attached to the Mediterranean squadron; and the consideration thereof was further postponed until to-morrow.

The Senate resumed the report of the Committee on the Judiciary, relative to the allowance of a certain salary to the judge of the sixth circuit court of the United States; and the consideration thereof was further postponed until Thursday next.

The Senate resumed the report of the Committee on Military Affairs, who were instructed to inquire into the expediency of providing for enforcing the attendance of witnesses before courts martial; and the consideration thereof was further postponed until to-morrow.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Elijah Rice; and on motion by Mr. DAGGETT, the further consideration thereof was postponed until this day two weeks.

The Senate resumed the consideration of the report of the Committee of Commerce and Manufactures, to whom was referred the petition of Joshua Swain, and others, inhabitants of the county of Cape May, in the State of New Jersey; and, in concurrence therewith, resolved, that it is inexpedient to grant the prayer of the petition.

Mr. FROMENTIN called up the petition presented at the last session, of sundry inhabitants of the province of Texas, praying a grant of land in the State of Louisiana, for reasons stated in the petition; which was read, and referred to the Committee on Public Lands.

The Senate resumed the motion of the 27th of last month, relative to moneys paid by the State of Massachusetts for the supplies and services of the militia of that State; and on motion by Mr.

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OTIS, the consideration thereof was further postponed until to-morrow.

The Senate resumed the consideration of the motion of the 6th instant, for instructing the Committee on the Judiciary to inquire whether any, and, if any, what amendments are necessary in the laws relative to the promulgation of the acts of Congress; and agreed thereto.

The Senate resumed the consideration of the motion of the 6th instant, for instructing a committee to inquire into the propriety of making a reservation of land for the establishment of a military depot, armory, and foundry, on the waters of Shoal creek, in the State of Tennessee; and agreed thereto.

The Senate resumed the consideration of the motion of the 6th instant, for instructing the Committee on Public Lands to inquire into the expediency of providing, by law, for the reservation of such tracts of land as may, in the opinion of the President, be suitable for the laying out and establishing towns; and agreed thereto.

Agreeably to the special order of the day the Senate resumed, as in Committee of the Whole, the resolution proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States, together with the amendment reported thereto by the select committee; and on motion by Mr. DICKERSON, the consideration thereof was further postponed to, and made the order of the day for, to-morrow.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of John Anderson;" and the consideration thereof was further postponed until to-morrow.

The resolution relative to the distribution of the late edition of the Land Laws, was read a third time, and passed.

#### TUESDAY, February 10.

The PRESIDENT communicated a report of the Commissioners of the Sinking Fund, stating that the measures which have been authorized by the Board subsequent to their report of the 7th of February, 1817, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the 6th day of the present month, and the statements therein referred to, which are herewith transmitted, and prayed to be received as part of this report; and the report was read.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Major General Arthur St. Clair," in which they request the concurrence of the Senate.

The bill last mentioned was read twice by unanimous consent, and referred to the Committee on Pensions.

Mr. TAYLOR, from the Committee on Public Lands, to whom the subject was referred, reported a bill to authorize certain purchasers of pub-

lic lands to withdraw their entries and transfer the moneys paid thereon; and the bill was read, and passed to the second reading.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill supplementary to the act, entitled "An act further extending the time for issuing and locating military land warrants, and for other purposes;" and the bill was read, and passed to the second reading.

Mr. RUGGLES submitted the following motion for consideration:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of making provision, by law, to compel a more prompt settlement of the accounts of the paymasters and quartermasters of the late army.

Mr. BARROUR asked and obtained leave to bring in a bill to promote the progress of useful arts, and to repeal the act heretofore made for that purpose; and the bill was read, and passed to the second reading.

Mr. MORROW presented the memorial of John B. Colvin, respecting the future publications of the laws of the United States, proposing to continue the same; and the memorial was read, and referred to the Committee on the Judiciary.

The Senate resumed the report of the Committee on Naval Affairs, to whom was referred the memorial of certain officers of the Navy and Marine Corps, attached to the Mediterranean squadron; and, on motion by Mr. TROUP, the consideration thereof was further postponed until Monday next.

The Senate resumed the consideration of the report of the Committee on Military Affairs, who were instructed to inquire into the expediency of providing, by law, for enforcing the attendance of witnesses before courts martial; and, on motion by Mr. ASHMUN, the report, together with the original resolution of the Senate, was referred to the Committee on Naval Affairs, with instructions to inquire into the expediency of providing, by law, for enforcing the attendance of witnesses before Naval courts martial.

The Senate resumed the motion of the 27th ultimo, relative to moneys paid by the State of Massachusetts for the supplies and services of the militia of that State; and the consideration thereof was further postponed until to-morrow.

The bill respecting the transportation of persons of color for sale, or to be held to labor, was read the second time.

The bill for the relief of Martin Warner was read the second time.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was referred the memorial of James Brobson, marshal of the district of Delaware, praying for some additional compensation to be made to him, made report, together with the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition.

The report and resolution were read.

Mr. CRITTENDEN, from the same committee,

to whom was referred the resolution providing for the distribution of the 6th volume of the Laws of the United States among the members of the present Congress, reported the same without amendment.

Agreeably to the special order of the day, the Senate resumed, as in Committee of the Whole, the resolution proposing an amendment to the Constitution of the United States, as it respects the election of Representatives to Congress, and the appointment of Electors of President and Vice President of the United States, together with the amendment reported thereto by the select committee; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Anderson;" and, on motion by Mr. RUGGLES, the further consideration thereof was postponed until Monday the 23d instant.

Mr. DAGGETT presented the memorial of the Milford Marble Company, in the State of Connecticut, praying the imposition of a duty on the importation of foreign wrought marble, for reasons stated in the memorial; which was read.

Mr. LACOCK presented the memorial of the Philadelphia Society for the promotion of American manufactures, praying the adoption of such measures as may protect and encourage the same; and the memorial was read.

#### WEDNESDAY, February 11.

Mr. MORRIL, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Israel Smith," reported the same without amendment.

Mr. MORRIL, from the same committee, to whom was referred the bill for the relief of Richard M. Johnson, reported it with amendments; which were read.

On motion by Mr. MORRIL, the Committee of Claims, to whom was referred the petition of Hugh May, together with the report of the Secretary of the Treasury thereon, were discharged from the further consideration thereof, and they were referred to the Secretary of War.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was recommitted the bill to alter and amend an act, approved the 3d day of March, 1817, entitled "An act to establish a separate Territorial government for the eastern part of the Mississippi Territory," reported the same with amendments; which were read.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with a resolution of the Senate of the 13th of February, 1817, I now transmit copies of the reports in relation to the surveys and examinations made, by Naval officers, in co-operation with officers of the Corps of Engineers.

JAMES MONROE.

WASHINGTON, Feb. 6, 1818.

The Message and report therein mentioned were read.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the bill, entitled "An act for the relief of Major General Arthur St. Clair," reported the same without amendment.

The Senate resumed the consideration of the motion of the 10th instant, for instructing the Committee on Military Affairs to inquire into the expediency of making provision, by law, to compel a more prompt settlement of the accounts of the paymasters and quartermasters of the late army; and agreed thereto.

The Senate resumed the consideration of the report of the Committee on the Judiciary, to whom was referred the memorial of James Brobson, marshal of the district of Delaware; and the further consideration thereof was postponed until next Wednesday.

The bill supplementary to an act, entitled "An act further extending the time for issuing and locating military land warrants, and for other purposes;" was read the second time.

The bill to authorize certain purchasers of public lands to withdraw their entries, and transfer the moneys paid thereon, was read the second time.

The bill to promote the progress of useful arts, and to repeal the acts heretofore made for that purpose, was read the second time, and referred to a select committee, and Messrs. BARBOUR, DAGGETT, and KING, were appointed the Committee.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of Representatives of the United States:*

As the house appropriated for the President of the United States, will be finished this year, it is thought to merit the attention of Congress, in what manner it should be furnished, and what measures ought to be adopted for the safe-keeping of the furniture in future. All the public furniture provided before 1814, having been destroyed with the public building in that year, and little afterwards procured, owing to the inadequacy of the appropriation, it has become necessary to provide almost every article, requisite for such an establishment; whence, the sum to be expended will be much greater than at any former period. The furniture, in its kind and extent, is thought to be an object not less deserving attention, than the building for which it is intended. Both being national objects, each seems to have equal claim to Legislative sanction. The disbursement of the public money, too, ought, it is presumed, to be in like manner provided for by law. The person who may happen to be placed, by the suffrage of his fellow-citizens, in this high trust, having no personal interest in these concerns, should be exempted from undue responsibility respecting them.

For a building so extensive, intended for a purpose exclusively national, in which, in the furniture provided for it, a mingled regard is due to the simplicity and purity of our institutions, and to the character of the people who are represented in it, the sum already appropriated, has proved altogether inadequate. The present is therefore a proper time for Congress to take

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the subject into consideration, with a view to all the objects claiming attention, and to regulate it by law. On a knowledge of the furniture procured, and the sum expended for it, a just estimate may be formed, regarding the extent of the building, of what will still be wanting to furnish the house. Many of the articles being of a durable nature, may be handed down through a long series of service; and being of great value, such as plate, ought not to be left altogether, and at all times, to the care of servants alone. It seems to be advisable that a public agent should be charged with it, during the occasional absences of the President, and have authority to transfer it from one President to another, and likewise to make reports of occasional deficiencies, as the basis on which further provision should be made.

It may also merit consideration, whether it may not be proper to commit the care of the public buildings, particularly the President's house and the Capitol, with the grounds belonging to them, including, likewise, the furniture of the latter, in a more especial manner, to a public agent. Hitherto, the charge of this valuable property seems to have been connected with the structure of the buildings, and committed to those employed in it. This guard will necessarily cease when the buildings are finished, at which time, the interest in them will be proportionally augmented. It is presumed that this trust is, in a certain degree, at least, incidental to the other duties of the Superintendent of the Public Buildings; but it may merit consideration, whether it will not be proper to charge him with it more explicitly, and to give him authority to employ one or more persons under him for these purposes.

JAMES MONROE.

WASHINGTON, Feb. 10, 1818.

The Message was read, and referred to the Committee on the District of Columbia.

The Senate resumed the consideration of the motion of the 27th of last month, for instructing the Committee of Claims to inquire into the expediency of providing for the examination and allowance of moneys paid by the State of Massachusetts, for the supplies and services of the militia of that State, employed during the late war in the common defence, so far as the same may be due upon principles of equity and justice; and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill respecting the transportation of persons of color for sale, or to be held to labor; and the further consideration thereof was postponed to, and made the order of the day for, Friday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Martin Warner; and no amendment having been made thereto, the PRESIDENT reported it to the House; and the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution providing for the distribution of the 6th volume of the Laws of the United States among the members of the present Congress, who have not been furnished therewith; and the further consideration thereof was postponed until Monday next.

## AMENDMENT TO THE CONSTITUTION.

Agreeably to the special order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States, together with the amendment reported thereto by the select committee.

Mr. DICKERSON addressed the Chair as follows:

Mr. President, the Legislature of the State of New Jersey, which I have the honor, in part, to represent, have instructed their Senators, and have requested the Representatives of the State, to use their endeavors to obtain the amendment to the Constitution of the United States now proposed. As I acknowledge their right so to instruct, I am disposed to yield a cheerful and ready obedience to their will. It becomes my duty, therefore, to contribute my humble efforts in support of the resolution now on your table. This resolution is substantially the same as that received from the Legislature of New Jersey, and that subsequently received from the Legislature of North Carolina, but differing from both in phraseology. The committee, to whom this subject was referred, have endeavored to improve the language of those resolutions. It has been their aim to make it concise, simple, explicit, and technical. They considered these circumstances as of considerable importance, as, in a Constitutional provision, every sentence and every word should be duly weighed and adjusted.

The amendment now proposed, if adopted, will neither increase nor diminish the relative strength of the two great parties which now divide, and which, in all probability, under their present, or some other denominations, will continue to divide the United States. Yet, in different sections of the country, very considerable alterations will take place, the respective parties gaining in some States and losing in others. And, as these alterations will diminish the strength and influence of the majorities in the respective States, the proposed amendment may be expected to meet with much opposition, but such as I hope will yield to the paramount consideration of the general good. An amendment like this, calculated to oppose the prejudices, to interfere with the private views and private interests, and to restrain the ambition of those by whose votes it must be carried, if carried at all, will necessarily be attended with difficulties, at all times great, and absolutely insuperable in times of party violence. Nothing but the great importance and, indeed, pressing necessity of the measure, can insure its success, even under the most favorable circumstances.

The present moment is peculiarly auspicious for making this attempt, as there is now less of party animosity than there has been at any period whatever since the establishment of our present form of Government. The experience we have already had forbids the hope that the present state of po-

litical harmony can be permanent, or of long continuance. If the present favorable opportunity be suffered to pass by, unimproved, it may never again occur.

The efforts which have been made in several of the States, to obtain an alteration in the Constitution similar to the one now proposed, is a sufficient indication of the public sentiment, and would, independently of other considerations, induce us to give the subject a most serious and laborious investigation. The Legislatures of Massachusetts, New York, Pennsylvania, Virginia, and North Carolina, have, at different periods, discovered a disposition to adopt a system of districting the States, for the purpose of choosing Electors, and a great proportion of the smaller States have manifested the same disposition. Under these circumstances, those who believe that the permanency of our present form of Government in no small degree depends upon the success of this measure, would be inexcusable if they should now relax from their exertions.

In all the discussions respecting this amendment, the provision for the choice of Electors seems to have been the primary object, and in that point of light I have always viewed it.

The most important, the most delicate, and, beyond comparison, the most hazardous operation under our Constitution is the election of a President of the United States. And the difficulties and dangers of this operation increase with the increasing population of our country. To choose a Chief Magistrate for eight millions of people, jealous of their rights, and impatient of control, cannot be effected under the best system of election, without some degree of hazard; but, if we extend our views to a period, not very remote, when our population shall amount to twenty or thirty millions of people, spread over an immense extent of territory, can we suppress our fears, that our present disjointed, discordant, and jarring system, will be found altogether inadequate to the purposes of a fair election? and, of consequence, inadequate to the purposes of preserving the peace and quiet of our country.

I will venture to predict that, whenever a dissolution of our present form of Government shall take place, it will be in consequence of a failure to come at a just expression of the public will in the choice of a President. And when, unhappily, this Government shall be dissolved, and the United States divided into parts by violence, those parts will not be free Republics, but will, of necessity, become military despotisms.

It will be allowed that, in an operation so all-important as that of an election of a President, every process should be regulated with the utmost exactness and precision; and, yet, there is scarcely an officer, great or small, important or unimportant, in the State government, or in the United States Governments, who is elected or appointed by a rule so undefined, so vague, so variable, so subject to abuse, as that by which we elect the Chief Magistrate of the Union.

It has often been asserted, and, I believe, never denied, that every decisive step in the election of

a President should be perfectly uniform, as well as simultaneous, throughout the United States; and, yet, if we take a view of the Presidential elections for the twenty years last past, it would seem as if uniformity had been carefully avoided. The States not only differ from each other, but differ from themselves. If the discordant systems adopted by the different States were to be permanent, it would afford some security for fair elections. But, so far from this, they are the subjects of constant fluctuation and change—of frequent, hasty, and rash, experiment—established, altered, abolished, re-established, according to the dictates of the interest, the ambition, the whim, or caprice, of party and faction.

Very early under the present Constitution, some of the smaller States adopted the plan of choosing Electors by a general ticket. In this there seemed to be no great inconvenience, as the people at large would generally know the characters of the small number of candidates to be elected; but, as it entirely suppressed the voice of the minorities of the States in which it was adopted, and as it gave to those States an undue weight in the general scale, the procedure was looked upon with a jealous eye by the larger States, some of which have adopted the same plan, not that they have thought it right, but, in order to form a counterpoise to the improper weight of the States previously adopting the rule, and they have justified themselves for adopting a measure they condemn, upon the plea of retaliation and necessity. The measure of voting by a general ticket, in the large States, where the voters can know nothing of the characters of four-fifths of the candidates for whom they vote, is fraught with so much difficulty, uncertainty, and absurdity; is such a total dereliction of every principle of republicanism that some of the States have thought the practice inadmissible, and have adhered to the equitable mode of choosing Electors in single districts; but have had the mortification to see, that, in adhering to correct principles, they have lost a portion of their relative strength; and that, in fact, they have suffered for the exercise of their political integrity.

The Legislatures of some of the States have boldly taken into their own hands, or, perhaps I do not use too strong language when I say they have usurped the power of appointing Electors. This appears to me a dangerous mode, inasmuch as it is in my mind a departure from the spirit if not from the letter of the Constitution.

By the first section, second article of the Constitution, "Each State shall appoint, as the Legislature thereof shall direct, a number of Electors," &c. Under the letter of this section, the Legislatures may direct a vote for Electors by a general ticket, or may divide the States into equal or unequal districts, at their pleasure; but, it appears to me an inadmissible construction of the language of this section, that the Legislature shall direct how they themselves shall appoint. If, therefore, the practice which has hitherto prevailed in several of the States, in this particular,

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is in any degree an infringement of the Constitution, or if there is a well-founded doubt upon this subject, which I think will hardly be denied, then it is highly expedient that the Constitutional remedy of amendment should be applied, and that this procedure should be corrected.

In some of the large States, where a resort to a general ticket for the choice of Electors has been deemed inadmissible on account of its uncertainty and absurdity, and where it has not been deemed correct under the Constitution to appoint Electors by a vote of the Legislature, the majority, not willing to adopt the fair mode of single districts, as that would give to the minority its due weight, have resorted to a mode of forming irregular districts, some large and some small, without regard to the situation or extent of the territory forming the districts. In this the aim has been to secure to the dominant party an undue influence, by suppressing, as far as practicable, the voice of the minority. This system of defeating every purpose of a fair election, has become an art and a science; and is known by the technical term of *gerrymandering*.

This irregular mode of forming districts has admitted of gross abuses, and has brought the greatest reproach upon the States in which it has prevailed. The sinister and ambitious motives of those who have adopted it, are left exposed to the public eye in all their deformity, without the slightest veil or covering. They are calculated to have a pernicious effect upon public manners. They have a tendency to unhinge every principle of moral as well as political rectitude in the minds of the people, and they destroy the respect which we ought to feel for our republican institutions. But, they may have one good effect in showing, in the strongest point of view, the necessity of adopting some uniform and equitable mode of districting the States.

The Legislatures of some of the States, under the vague and uncertain provisions of our Constitution, have resorted to means of a still more dangerous character.

In the State of Pennsylvania, the two Houses of Legislature are elected for different periods; the Senate for four years—members of Assembly for one year; in consequence of which it may frequently happen that the Houses will be of different political sentiments. This did happen in the year 1801, when the United States were agitated with a Presidential election then pending. Thirteen of the twenty-five Senators were of the party then called Federalists, giving to them a majority of one. A very large majority of the opposite character were in the other House, who, having been then recently elected, afforded a very fair representation of the relative strength of the parties throughout the State. The vote of Pennsylvania was considered as decisive of the election. In consequence of the disagreement of the two Houses in the Legislature of the preceding year, no law had been made for choosing Electors. As the time approached for choosing Electors, the Governor convened the Legislature to provide for the case. The majority of the Sen-

ate knew that if they went into a joint meeting with the members of Assembly, they would be outnumbered, and determined that the Electors should be chosen by a concurrent, and not by a joint vote of the two Houses. This was in fact determining that there should be no appointment of Electors; inasmuch as the Houses would never agree as to the candidates, and this was the intention. The thirteen Senators who took this bold and decided stand, conceived it so much an act of political heroism, that they dubbed themselves the Spartan band. And they persisted in this measure, in defiance of public opinion, until the members of the Senate were induced to enter into a disgraceful compromise, by which one-half of the Electors were to be of one party, the other half of the other, except the odd one, who was given to the House of Representatives. So that a vast majority of the powerful State of Pennsylvania was, in fact, represented by a single Elector. In that election the smallest State in the Union had more weight.

In the year 1808, the majority of each branch of the Legislature of Massachusetts were opposed to the Governor of the State, whose assent is necessary to legislative acts. The two Houses appointed Electors without the assent of the Governor to the act or resolution under which they were appointed. As the votes of Massachusetts could not affect the Presidential election, I believe they were not disputed; but, had they been disputed, they would probably have been rejected; at least, Massachusetts, from the imperfection of our system, ran the hazard of losing her vote. In the instance of Pennsylvania, the voice of the majority was suppressed; this was an evil hardly to be submitted to; but, in New Jersey, a much bolder step has been taken; the voice of the majority has been more than suppressed, to use a solecism, for they have been made to speak a language exactly the reverse of their wishes. In the year 1812, by a strange concurrence of circumstances, not necessary to be here detailed, a small majority of the Legislature were in direct opposition to a very large majority of the citizens of the State. By a law, which had been many years in existence, the Electors, as well as Representatives in Congress, were to be elected by the people in a general ticket; the election was to take place early in November. The Legislature met late in October, and only eight days previously to the day of election; under the provisions of the law, nominations had been made for Electors and Representatives in Congress in all the counties of the State. Copies of these nominations had been transmitted to the Executive of the State, from which a general nomination was made out, and transmitted by the Executive to all the county clerks, who had transmitted copies of the same to all the town clerks, by whom they had been duly advertised; all this had been done at considerable expense and trouble previously to the meeting of the Legislature. It will scarcely be believed that any Legislature would, under such circumstances, venture to arrest the progress of an elec-



tion so far advanced and so near a completion. The Legislature, however, repealed the election law, and took into their own hands the appointment of Electors. Expresses were sent into the different parts of the State, to give notice of this repeal, but not in time, for the citizens in many towns met and gave their votes for Electors and Representatives without knowing of the repeal of the law. The Legislature appointed eight Electors, not one of whom would have been appointed by the people under the late election law; and this the Legislature well knew, otherwise they would not have taken from the people the right of choosing Electors under the law. By this rash measure, which the people took care to reprobate at the next election, the majority in the State not only lost their vote, but were made to speak a language, as I before observed, exactly the reverse of their wishes.

As we have never experienced any serious mischief from this kind of violence on the part of the State Legislatures, it may be thought that no great danger is to be apprehended. But, we should reflect, that those daring attempts to defeat the public will have not been successful. The result of the election of 1801 was the same as it would have been if Pennsylvania had given its full vote; whether the vote of Massachusetts was received or not, in 1809, it did not affect that election; but here I must observe, that the vote of that State was by no means of the character of that of Pennsylvania, or that subsequently of New Jersey. The vote of New Jersey had no effect upon the election of 1813. But, suppose the kind of violence which took place in Pennsylvania, should be resorted to on a more extensive scale, and that the voice of New York, Pennsylvania, and Virginia should be suppressed by the collision of their Legislatures, and that, by these means, a man, not the choice of the people, should be imposed upon us as President of the United States: what would be the consequence? I will not say civil war; but I do not go too far when I say, the peace of the country would be in great danger. It is true, we have not yet suffered from these measures; but are we never to profit by any experience in which we are not sufferers? Possibly, the first time we suffer from this kind of violence will be that in which the Union will be dissolved.

Under the present system, while the Legislatures take into their hands the appointment of Electors, and can calculate their exact weight in a Presidential election, a boundless field is opened for the intrigues of ambitious men and ambitious States. Combinations may, and no doubt will, be formed, by which the minority in the Union will control the majority, than which, nothing can more certainly tend to the destruction of our Government. Calculations upon this subject have been often made and often repeated. I will submit one for the consideration of the Senate; the whole number of Electors in the twenty States is two hundred and twenty-four, of these one hundred and twelve make a majority, and can elect a President. The States of New York,

New Jersey, Pennsylvania, Maryland, Virginia, and North Carolina, are composed of contiguous territory, and, from their central situation, may be supposed to have an interest in common with each other, and motives of combination not to be found in other States. These six States, one of them a small State, and another but of middle size, have one hundred and thirteen Electors, a majority of the whole; a bare majority in the Legislatures of each of these States can give a President to the United States, even if the other fourteen States were unanimously opposed to him. This is an extreme case, but serves to elucidate the subject, and cannot fail to have an impression, that this kind of abuse may and will be carried to a dangerous extreme, unless some Constitutional check be interposed. Thus, it is evident, that a combination, contemptible for its numbers, may place a President in the Chair of State; but can they support him there? This should be the test. No power should elect a President that could not support him when elected. When the physical strength of the country elect a President, then all is safe; for the power that has created can defend. By the physical strength of the country I mean, not Prætorian bands or standing armies, but the majority of the people, and I pray that they may ever remain beyond the control of any other earthly power.

It may be urged, that the same abuse might take place, even if the States were divided into districts according to the plan proposed, as the voice of the minorities would be suppressed in the different districts. The contingencies upon which such abuse could happen are very remote, as the fractions of votes lost on the one side in one district, would probably be balanced by those on the other side in another district: the probable result of the votes of all the districts, where numerous, would be as fair an expression of the public will as can possibly be obtained, unless we resort to a general vote of the people at large, without regard to the division of the States. The more numerous the districts in a State, the more fair will be the representation. The chances of coming at a just expression of the public will in districts, is greater than that of coming at the same result in States, as the number of districts is to the number of States.

It may be said, that where two candidates contend for the Chief Magistracy, each possessing the qualifications necessary for the high station, it could make no serious difference to the Union which of the two should succeed; and if the candidate having the smaller number of suffrages, upon a fair vote, should succeed by the intrigues of his friends, it would create no dangerous commotion. The danger is not that the affairs of our Government shall be administered by the second, instead of the first, man in the Union, between whom there might be no great difference in point of honor, integrity, talent, or information; but it is from the difficulty of preserving the peace of the country under a President imposed upon us by violence or fraud. Are we to suppose, that a large majority of the people, knowing that

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they possess, numerically and physically, a great preponderance in the general scale of strength, will submit to a Chief Magistrate imposed upon them by the intrigues of faction?

If we presume that a President, however worthy or however able, placed in his Chair by any indirection, shall be quietly submitted to by the citizens of the United States, we presume upon a mildness, a forbearance, a tameness, not to be found in the American character.

Perhaps the larger States will feel a reluctance to adopt a measure, which will in some degree curtail their power of forming combinations with each other, and thus controlling their sister States; but, the very disposition thus to combine and control, is a dangerous and tyrannical principle, and if attempted would lead to counter combinations, on the part of the middle size and smaller States. Besides, there is much more probability of collision than of concert, among the large States. But, their combinations and their collisions are about equally to be dreaded. The plan of having two of the Electors appointed in each State as the Legislature should direct, and the others chosen in districts, is keeping up the Federative feature of our Constitution; as the two to be appointed may be considered as analogous to the Senators, and the others to the Representatives in Congress; and such seems to have been the meaning of the convention, by making the number of Electors equal to the number of Senators and Representatives. This circumstance is not very important, but it has some weight in favor of the proposed amendment—a much greater recommendation is, that it renders double districts for Representatives and Electors unnecessary. There is great simplicity in the plan of single districts; they are but little subject to confusion and mistakes, and as they are to be modelled but once in ten years, there will be but little difficulty in their arrangement.

The present amendment, if adopted, introduces no new principles into the Constitution. It only renders it obligatory upon the States, to adopt a system permanently, which nearly all of them have adopted temporarily, which some have pursued, and which all ought to have pursued uniformly.

It does not abridge the just rights of any State, but adds to the security of all. It throws no obstacles in the way of those worthy patriots who are aiming by fair and honorable means to reach the highest summit of distinction which a great and free people can confer, but it rather promotes their views by suppressing those extensive and dangerous intrigues which agitate the Union, at the approach of every Presidential election.

In a discussion which took place in the Senate upon this subject two years ago, it was mentioned, but not urged, that the provision respecting the election of Representatives to Congress, seemed unnecessary, as Congress had already the power by the Constitution to regulate the election of Representatives. I believe this provision in the Constitution was inserted to guard against a possible case, of a combination of particular States,

to stop the progress of the Government, by refusing to send Representatives to Congress. In this point of view the provision was a wise one, but it will never be resorted to, except in cases when States neglect or refuse to make provision for electing Representatives. Congress could not, under that provision, pass a law, making it obligatory upon the Legislature of a State, to divide it into election districts; and, should Congress attempt to divide the States into districts they would involve themselves in a task of infinite difficulty, as well as one that would bring upon them the highest degree of odium; for, it would be considered as a sort of degradation, on the part of any State, to be divided into districts, without the consent of its Legislature.

Although I think the amendment proposed is much more important as it respects the choice of Electors, than as it respects the election of Representatives, yet, in this, some correction is loudly called for. The unwarrantable means resorted to by the dominant parties in the respective States, to establish and retain an undue share of power, is slowly and imperceptibly sapping the fundamental principles of our Government. A want of respect for popular elections may be considered a most unfavorable symptom in our political progress, yet, what respect can we possibly have for popular elections, exercised under the systems of *gerrymandering* that have been adopted in some States? Such elections are a mere mockery of the right of suffrage.

In our National Legislature, the House of Representatives is emphatically called the popular branch: it ought so to be, and was intended so to be, by the framers of the Constitution. The House of Representatives should be a fair representation, not of the States, as the Senate is, but of the citizens—the people at large. It would be thought preposterous to appoint the Representatives by a vote of the Legislatures, even if the Constitution were as vague in this particular, as it is with respect to the choice of Electors; because, it would leave to the Representative, no feature of a popular branch; yet, generally, we come precisely to the same result, when we choose them by a general ticket. It is equally subversive of the views of those who consider the popular branch the great prop and stay of our Government; yet, we begin to look upon this mode of election, especially in the small States, almost without disapprobation. The large States, if no corrective be applied, will, in their own defence, adopt the same practice; and even the good State of North Carolina, which has hitherto been conscientiously scrupulous upon this subject, and which has long been endeavoring to accomplish this necessary reform in our Constitution, will be compelled to follow the example of her more ambitious neighbors, to adopt a system which she abhors, and to choose her Electors as well as Representatives with a general ticket.

This mode of election, when generally adopted, will be attended with consequences of a dangerous character. It will suspend or destroy every feature of popular election, as it respects Repre-

sentatives in Congress. By totally suppressing the voice of the minorities in the several States, it will greatly increase the rancour and bitterness of party. It will give to the geographical divisions of our country an aspect of political hostility; and will cherish an uncharitable, unsocial, and clannish disposition, to which we may already ascribe no small share of the embarrassments and calamities which our Government has heretofore experienced.

When Mr. DICKERSON concluded—

The amendment was advocated by Mr. MAGON, and opposed by Mr. BARBOUR and Mr. DAGGETT. The question was finally postponed to Wednesday next.

#### THURSDAY, February 12.

The PRESIDENT communicated a letter from the Secretary of the Treasury, transmitting a report of the Director of the Mint, giving the result of sundry assays made of the several species of foreign gold and silver coins made current in the United States by an act of Congress passed the 29th of April, 1816; and the letter and report were read.

The bill for the relief of Martin Warner was read a third time, and passed.

Mr. SANFORD presented the petition of William Hill, and others, inhabitants of the city of New York and town of Salem, praying to be allowed the interest on certain debenture bonds, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. DAGGETT gave notice, that to-morrow he should ask leave to bring in a resolution authorizing the further distribution of certain public documents.

Mr. WILSON submitted the following motion for consideration:

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of extending the time allowed by the act to provide for designating, surveying, and granting the military bounty lands, approved May 6, 1812, to non-commissioned officers and soldiers of the United States, or their representatives, to present their claims to the Secretary of War for military bounty lands.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was recommitted the bill to increase the salaries of the judges of the circuit court for the District of Columbia, reported the same without amendment.

Mr. CRITTENDEN, from the same committee, in pursuance of instructions, reported a bill to increase the compensation of certain judges of the courts of the United States; and the bill was read, and passed to the second reading.

Mr. WILLIAMS, of Mississippi, offered instructions from the Legislature of the State of Mississippi, to their Senators in Congress, on the subject of the eastern limits of that State; which were received and read, and referred to the committee to whom was referred on the 16th of December, 1817, the memorial of the Mississippi Convention, on the same subject.

The Senate resumed the report of the Committee on the Judiciary, on the expediency of allowing to the judge of the sixth circuit court of the United States a certain salary; and the consideration thereof was further postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, supplementary to the act, entitled "An act further extending the time for issuing and locating military land warrants, and for other purposes;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize certain purchasers of public land to withdraw their entries, and transfer the moneys paid thereon; and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Richard M. Johnson, together with the amendment reported thereto by the Committee of Claims; and the amendment having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

#### MILITARY SERVICE.

Mr. CAMPBELL, from the managers on the part of the Senate, at the conference upon the subject of the disagreeing votes of the two Houses on the bill, entitled "An act making appropriations for the military service of the United States for the year 1818," made the following report:

"That the conferees of the House of Representatives commenced the conference by stating, that

"By the construction of the law of 1812, which the Committee of the House of Representatives believe to be adopted by that House, the pay of a brevet commission is due only when the officer exercises a command, to which his lineal rank would not entitle him. To such command, under the President's general order of 1816 and 1817, he may be assigned upon special and temporary occasions. It is believed, from the amendment proposed by the Senate, that their construction is not very different from this. The construction of the War Department, however, is very different. The Committee of the House of Representatives consider it wrong to explain or amend any act by which salaries or pay is regulated by the provisions of an appropriation law. But if it were right, the short debate which occurred in the House of Representatives on the Senate's amendment sufficiently proves, that the adoption of that amendment might change a little the ground of argument, but would not terminate the controversy.

"As an amendment of the law of 1812, the provision proposed by the Senate is, therefore, unsatisfactory; and to insist upon an appropriation previous to an amendment, is to insist either that the one body shall conform its appropriations (not to its own construction of existing laws, but) to that of the other body, or that both shall adopt, what both believe to

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be erroneous, the construction of the Executive Government.

"The Committee of the House of Representatives believe that respect for the rights of both Houses, requires that the act of 1812 should be amended, by defining more precisely the contingencies in which brevet pay shall be due; or, if this be impracticable, by authorizing it in all cases, or in none. The bill which passed the House of Representatives at its last session may explain the amendment which it then preferred; but it now insists only that the amending law should first determine to whom pay is due, before an appropriation should be made for its payment.

"The Committee of the House of Representatives consider it necessary to fair and free legislation, that appropriations in regard to the propriety or the extent of which the two Houses find, after deliberation, that they still differ, should be separated from those which both consider as necessary to the public service. If either branch of the Legislature determine that it will not make the great mass of necessary appropriations while there remains one unprovided for which it considers to be proper, it throws upon the other branch the necessity of concurring in an appropriation which it may believe that neither the law nor the public interest requires, or of endangering all the appropriations of the Government. The Committee of the House of Representatives hope that the appropriations which both Houses deem necessary will be made; and that the appropriation for brevet officers, which the Senate suggests, will be left to be provided for, when an amendment to the act of 1812 shall determine what that appropriation ought to be."

"The conferees on the part of the Senate admitted that doubts might exist as to the proper construction of the act of 1812, allowing pay to brevet officers, and that it might be found expedient to remove such doubts by an explanatory law, defining, more precisely, the contingencies in which such pay should be allowed; but as, according to the construction given that law by the House of Representatives, as stated by their conferees, which accords, substantially, with that contained in the Senate's amendment, expenditures to a certain extent would be legally authorized under it, and must be supposed to have taken place, and to continue to take place, until the law shall be altered, the conferees of the Senate were of opinion that an appropriation sufficient to cover such probable expenditure ought now to be made, without waiting for the passage of such explanatory law. They did not think such law should be made to have a retrospective operation, so as to affect expenditures legally incurred before its passage; nor could they perceive how the passage of such a law could be deemed necessary to determine the propriety of making an appropriation to meet an expenditure which it could not regulate. They admitted that, generally, it would not be the most correct course to amend a law establishing salaries, or authorizing an expenditure, by a provision in a general appropriation law, though they believed there was no Constitutional or legal objection to such a course; but they stated further: 1st. That the Senate's amendment was not designed as an alteration of the law of 1812, but only expressing the construction of that law which appeared to the Senate the correct one, and restricting the sum appropriated to the discharge of expenditures incurred pursuant to such instruction; which, it is presumed, may be done on the same principle that other specific appropria-

tions are made applicable to the objects designated, and to no other. 2d. If the objection be to the words in the Senate's amendment, which restricts the application of the sum appropriated to services performed by brevet officers, when acting in their brevet rank, the conferees of the Senate would agree to strike out those words, and have the sum appropriated applicable to services performed by such officers generally, agreeably to the terms of the estimates. Though the conferees of the Senate were willing to admit that, generally, it would not be advisable to embarrass a measure embracing the mass of appropriations deemed necessary, by insisting on one of a doubtful nature, they did not consider the argument as in any degree affecting the present case, the appropriation insisted on by them not being doubtful in its nature; because, according to any fair construction that can be given the law of 1812, and adopting that preferred by the House of Representatives, some expenditure is authorized, and must be presumed to take place under it, before an explanatory law can be passed; and an appropriation to meet such expenditure did not appear to them of a doubtful nature, and on such alone they insisted. It appeared also to the conferees of the Senate, that the construction given the law for several years by the Government, and acquiesced in by the Congress, allowing brevet officers such pay as is now asked, gave those officers reasonable ground to expect a continuance thereof, so long as the law continued in force; and as the expenditure now proposed to be provided for did not arise out of any new construction of the law, and had, at least in part, already accrued, they considered it the duty of the two Houses to provide for it in the general appropriation law, and not leave it to be provided for in an act which may or may not pass; and they could see no ground for postponing the appropriation now insisted on by them, that would not equally apply to any other asked for, to meet an expenditure already incurred, under any law that it might be suggested required amendment.

"The conferees of the Senate stated explicitly they would not insist on making at this time any appropriation, with a view of coercing an expenditure which should accrue subsequent to the period at which an explanatory law relating to the matter in question could be supposed to pass, and which might, therefore, be either authorized or controlled by such law; and though the sum requisite to meet the expenditures that must accrue under the existing law, before it can be altered, could not be exactly ascertained, it might be ascertained with nearly the same accuracy that sums for other objects are, and therefore its uncertainty appeared to them to form no solid objection to the measure.

"For the purpose, therefore, of providing for such expenditure alone as must in any event take place, and leaving the two Houses to act in regard to the subject in future as each should consider correct, without being considered in any manner compromised by the appropriation that might now be made, and anxious to reconcile, as far as practicable, the views entertained by both Houses on this subject, by meeting those of the House of Representatives as far as in their opinion a due regard to correct legislation and the duty they owe the Senate would authorize, the conferees of the Senate proposed, if the conferees of the House of Representatives would agree thereto, to modify the Senate's amendment so as to read as follows:

"For additional pay, rations, and forage, to officers having brevet commissions, when commanding separate posts, districts, or detachments, requiring them to act in their brevet rank during the months of January, February, and March, of the present year, nine thousand dollars.

"The conferees of the House of Representatives refused to agree to this proposal; and as they neither proposed nor suggested any modification of said amendment, to which they would give their assent, the conference, after being continued as long as there was any prospect of arriving at a favorable result, terminated without the conferees of the two Houses being able to come to any agreement on the subject thereof."

The report was read.

#### SURVIVING OFFICERS OF THE REVOLUTION.

Agreeably to the special order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," together with the amendments reported thereto by the Committee on Military Affairs; and the question recurring on the motion to postpone the further consideration of the bill until the first Monday in July next—

Mr. GOLDSBOROUGH addressed the Chair as follows:

Mr. President, as it appeared to be the disposition of the Senate, when this subject was under discussion some days past, to go into the merits of the bill now before you, upon the question of postponement, submitted by the honorable gentleman from Virginia, I must conform to that wish, although I had much rather that the discussion could have been deferred until the bill had been so modelled as to have approached more nearly to the wishes of all.

I hope the motion for a postponement of this bill to a day beyond the session will not be carried, as I consider it a high and solemn duty incumbent upon us to make some remuneration to the worthy and indigent men who are now presented to our attention. The feelings of all who have delivered their opinions upon this subject seem to be in accordance with the object of this bill; but difficulties arise on every side that appear to be insurmountable, the greatest of which is, to what class of men we shall direct our benevolence. The merits of all have been exhibited to view, and we are told, if we discriminate we shall do injustice; and if we include all, that the finances of the country will be exhausted in the undertaking. It is not my purpose, sir, to detract from the merits of any; but surely, Mr. President, if there is any one definite class of men more meritorious than another; if there are any men in this country, who, by their services and sufferings, have rendered themselves most dear to our recollections, and most worthy of our gratitude, they are the officers and soldiers of the Revolutionary Army. If they are infirm, we ought to sustain them; if they are indigent, we ought first to help them.

The objections which have been offered to the question now before us are formidable, from their number and variety. It will be proper for me in the first place to examine these objections, not with the arrogant pretension of effectually doing them away, but of endeavoring to place them in such a point of view as in some degree to impair their force, and to render them less imposing than they have been considered.

It is objected, that the Revolutionary officers and soldiers have no claim against the Government; that all that was ever promised them has been given, and all that was ever stipulated has been complied with. It is not pretended by any of the advocates of this measure that these men have any strict claim in law, but the expectation is most ardently and sincerely entertained that a case can be made out that will authorize (and we hope induce) a grateful country to make them the objects of generous munificence.

By various resolutions of the old Congress, certain officers of the Revolutionary Army were to be placed on half-pay for life. This half-pay was afterwards commuted for five years' full-pay. From whom the proposition of commutation came, is a disputed point; and as I do not know that it has any material bearing upon this question, I will forbear to inquire into it. The origin of the commutation is to be traced to those murmurings and discontents which were exhibited in many parts of the country against the half-pay establishment; and those who were to receive it, notwithstanding the pledges of devotion to their country which they had given in the field, were met with the opprobrious epithets of *hireling*, *mercenary*, and *pensioner*! It is to the prejudice which existed everywhere amongst us, against the country from which we had been separated, and against every establishment similar to her's, that we are to look for the cause of this sensation. It is allowable to call it a prejudice, sir; for, what we term a prejudice now, was a virtue then. The superior officers in the Army, who were the oldest, first agreed to this commutation. At their time of life, the bargain was a pretty good one, if they had been paid in good money; but not so with the young officers, who constituted by far the greater portion. Yet these, under the influence of their superior officers, to whom, from habits of discipline and long-tried confidence, they had ever looked with a veneration that knew no change, and with an affection that found no limit, at length consented, and accepted the commutation. It seemed to be the last chance—the only hope. No sooner had they accepted the terms, and received the final settlement certificate, as the evidence of the debt due them from the Government, than their necessities forced them into the hands of the remorseless speculator, and they sold the reward of their toils—some for eighteen pence, some for two shillings, and some (more fortunate than the rest) for half a crown in the pound.

Let us pause a moment, sir, and endeavor to estimate the probable sacrifice that was made by these unfortunate men. I shall not in my calculation expect to be perfectly exact, but I shall be

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sufficiently so to enable the Senate to form a clear opinion upon the subject:

Captain's pay per month	\$40
	12
Per year	\$480
	5
Commutation, (five years' pay)	\$2,400
Arrearage due at time of disbanding Army, two and a half years' pay, about fifty per cent. on commutation	1,200
	\$3,600
This, estimated at two shillings and sixpence in the pound, as the final settlement certificates were sold, is reduced to	450

A sum less than one year's pay.

A captain's pay is always taken as a fair average in the Army, on which to found calculation. The pay of a captain was forty dollars a month—four hundred and eighty dollars a year. The commutation of five years' full-pay would amount to twenty-four hundred dollars. There was due at the time of disbanding the Army about two years' and a half pay, or fifty per cent. upon the amount of commutation. This added to the commutation would be twelve hundred dollars more; making in all thirty-six hundred dollars. A final settlement for thirty-six hundred dollars, with a captain, sold by him then at two-and-sixpence in the pound, or thirty-three and a third cents in the two dollars, and sixty-six and two-thirds of a cent, would give him about four hundred and fifty dollars—a sum less than the pay for one year for his whole commutation and arrearages. If it is remarked that the act of selling was his own, I reply, it was his necessity, and not his will, consented—a necessity produced by the incapacity of the country to pay him in money of value.

But, how was it with those who had it in their power to hold their certificates? Let us recur again to the pay of a captain in the Army:

A final settlement certificate to a captain is passed for commutation and arrearages, bearing interest of six per cent. per annum, from the year 1783	\$3,600
Interest for six years	1,296

But, instead of paying the sum, the interest is converted into a three per cent. stock; thus sinking one-half of it, viz: - \$648

The principal of \$3,600, instead of being paid, is converted into a six per cent. stock, two-thirds of which bears a present interest of six per cent., and the interest of six per cent. on the remaining one-third is deferred (not to be paid) for ten years; making a loss of six per cent. for ten years, on \$1,200, of - 720

Total loss of a captain, by mode of payment - \$1,368

Add interest upon that amount to the present time.

The certificate of final settlement for thirty-six hundred dollars purported upon its face to bear an interest of six per cent. until paid. It was passed

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in 1783. Six years afterwards, Congress, unable to pay off these claims, had recourse to the plan of funding them, and instead of paying the six years' six per cent. interest upon the certificate of thirty-six hundred dollars, (which would have been twelve hundred and ninety-six dollars,) they converted that interest into a stock bearing three per cent. interest. Thus, by the very act of conversion, saving to the Government and taking from the captain half the amount of his interest, (equal to six hundred and forty-eight dollars;) for, if any interest was due, it was six per cent. Again. The amount of principal, being thirty-six hundred dollars, was also converted into a stock bearing six per cent. interest, two-thirds of which was to bear a present interest of six per cent. and the interest upon the remaining third was deferred for ten years, saving again to the Government the interest of six per cent. upon twelve hundred dollars for ten years, which is equal to seven hundred and twenty dollars; thus, the Government saved to itself, out of the money due a captain, by the mode of payment which it adopted, six hundred and forty-eight dollars of the interest due him, and seven hundred and twenty dollars by withholding the interest upon one-third of his principal for ten years, making, in the whole, the sum of thirteen hundred and sixty-eight dollars. Instead, then, of paying the captain the amount of principal and interest due him by the evidence of his certificate from under the hand of the Government, their necessities compelled them to have recourse to a system of payment to which the creditor was not a party, that saved to the Government the sum of thirteen hundred and sixty-eight dollars, and took it from him to whom it was justly due. I do not pretend to say, sir, that this constitutes a debt at this time of day, according to, and recoverable by law; but to my mind it creates an obligation to make some remuneration, against which neither time nor circumstances can avail.

I know full well, Mr. President, that it was the depressed condition of the finances of the country at that time, that produced this calamitous state of things. I am aware of it, and I regret it. The condition of the nation, then, was that of an unfortunate debtor, who had stopped payment with a prospect of more ample resources at a future day, and called upon her creditors, who were her benefactors, and made the most equitable and fair composition with them that she could. It is now, sir, when this debtor, our country, is opulent, and powerful, and prosperous, that we desire her to do, what every honorable member in this Senate, I am persuaded, would do in his own private capacity, I mean to remunerate those who had sustained losses in consequence of her former disability to discharge her just debts.

Other objections to this bill are derived from the various classes of men who served and suffered in the Revolution. We are told of those who served in the councils of the country at that time—of those who suffered from the ravages of the enemy, and from the destructive neighborhood wars, which existed in some of the States,



in consequence of a difference of sentiment—and lastly, of the militia. And, as a strengthener to all, we are told, that the States individually have done much for the officers and soldiers of the Revolution. Mr. President, towards those illustrious men who filled the councils of this country, during the great Revolutionary struggle, I can feel nothing but the most exalted reverence, and respect, and admiration. It was to their steady perseverance and unshaken fortitude, that we owe the success of that contest which gave independence to this country. Their wisdom, their constancy, and their fidelity, will ever be remembered. But what they planned in council, your army sustained in the field. If they toiled and watched over your destinies, they had some periods of time that they could devote to their families and their private concerns—they had it in their power to pay some attention to domestic cares—and, in the midst of their faithful labors, their health was taken care of; they were plentifully fed, and comfortably lodged at night. Not so with your army: Half-starved, half-naked, tracked in their course by the blood from their unshod feet, they followed their Heaven-directed leader with heroic constancy and courage—defying the elements—exposed to every vicissitude of season and of weather—bearing up against the multiplied calamities of the most ill provided warfare, they sunk from their toils to catch a moment of repose upon the frozen field, uncovered, except by the skies. Sir, there is no comparison between the sufferings of these men; and as little between their present condition, arising from the difference of that service.

Whatever may have been the misfortunes of those who were injured by the fury of the enemy, or of their neighborhood wars, it is impossible at this time of day to estimate. The case is remediless with all its horrors. We have seen the difficulty, for some years past, of providing for the destruction committed in the late war. Two years have been consumed in establishing the principles which shall govern in those cases, and yet every day a memorial is laid upon our table, asking redress for cases not included in the law. If such difficulties are felt on account of losses of such recent date, how can we hope to redress those where time has swallowed up both the parties and the evidence; and gentlemen must excuse me, sir, for saying, that I do not consider it altogether fair to introduce an impracticable case against us, and then deny that we ought to do that which is feasible, because we don't do that which is impossible.

As for the militia, sir, their services were often useful, often admirable—but their employment was very different from that of the Continental army. The militia were generally employed for short periods, and not taken far from home; their services were mostly performed in defence of their own neighborhood, and their fatigues and exposure were comparatively small when contrasted with that of the regular army. As to the rewards which the States have benevolently bestowed upon such of the officers and sol-

diers as were within their respective limits, it does them much honor, but we cannot shelter ourselves under the charity of others. It was for the nation at large that these men fought and bled; it was for the country they encountered all their hardships, and it is from the national Treasury they ought to be reimbursed.

But the greatest objection of all, is the supposed exorbitancy of the sum necessary for the object. This is the point at which I fear we shall falter. Perhaps a little examination into this point may diminish the obstacles that our alarms have created. There is no certain evidence to which we can have recourse at this time to ascertain, with exactness, the number of surviving officers and soldiers of the Continental army. Various calculations have been made by those who may be supposed to have the most accurate means of information, and these have proved unsatisfactory. The only document we can find upon the subject, is the number of men discharged at the time the army was disbanded, which was about thirteen thousand five hundred—if to this is added one-fourth of that amount, to include those who have been discharged after one, two or three years' service, we shall have in the whole the number of 16,875 men. A better computation can be made of the officers, who are more known in the community, and who are generally recorded in the society of the Cincinnati. They are estimated at rather more than two hundred survivors, being one tenth of the whole. If we calculate the men by this mode, and it will be an extravagant calculation—for in all the estimates of human life the most precarious hold, the greatest mortality, is always found to be among that class of men, who from their condition are most exposed, least attended to, and most destitute of essential comforts. If, I remark, we adopt this mode of calculation, we shall have 1,614 survivors of the non-commissioned officers and privates of the Continental army—a number, one third if not one-half exceeding what any intelligent Revolutionary officer now alive believes to be the true one. Taking then the estimate, at this large calculation, of two hundred officers and sixteen hundred and eighty-seven privates, the whole amount of half pay per annum to each (estimating a captain's half-pay as the measure of that of the officers) would not exceed one hundred and fifteen thousand four hundred and eighty dollars, a sum inconsiderable in itself when compared with the object, and a sum that will diminish in an accelerated ratio every year, until, in ten years from this, there will not be a tenth remaining to be paid. If there is an error in this statement, it unquestionably is by making the estimate too large, and when we come to reflect upon the object to be accomplished, and the means necessary for the purpose, I trust that we shall neither feel hesitation nor reluctance.

It ought not to be objected to this statement, that the disparity in the amount received by each is too great. We do not make that disparity—it is already created to our hand. We take them, officer and soldier, as we find them, and measure

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out to each according to what they had been accustomed to receive. There is no other standard that I know of, in conferring benevolences, or honorary pecuniary rewards to military men, than the rank they hold; and if the amount to each soldier is a trifle, the very circumstance of its being small will enable us the better to afford it. But you may rest assured, sir, that, small as it is, it will be wealth and comfort to many poor soldiers—it will smooth the remnant of their road to the grave, and perhaps enable them to close their eyes in peace.

But, Mr. President, there are other motives which, in my judgment, are strong and coercive to the adoption of this measure. I mean those, sir, of national feeling and national character, which are involved in the issue of this bill, and which I do not think we are at liberty by any means to disregard. Shall it be said, sir, that the brave officers and soldiers of the Revolution were abandoned by us in their advanced age and infirmities, to the precarious offerings of public charity; to the protection of the almshouse, and such receptacles of human wretchedness, whilst the Treasury of the country is ample to relieve them? Shall the history of our country add another instance for those with whom "the ingratitude of Republics" is a maxim? Shall the veterans of the Army of Independence, whose wants and infirmities arise from having devoted the best portion of their lives to the service of their country, now languish in penury, neglected by that country? Feeling as I do upon this occasion, sir, I exult in the opportunity which is this day presented me, of doing honour to my country by doing justice to her brave defenders; and I do not now appeal to the cold and calculating policy of the politician, but to the generous hearts that are near me, which will cause us to exhibit a scene not less interesting than that of the Roman charity itself, where the aged and famished fathers of our country shall draw from our bosoms the sources of life, and nutriment, and comfort.

With your permission, sir, I will now call your attention for a short time to the provisions of the bill itself, and to the nature of the amendments offered by the Committee. The bill, as it now stands, appears to be too indiscriminate, and to embrace too much, as by it every fellow that was drummed out of camp, or dismissed the service for the lowest vices, may be the object of reward; there ought certainly to be some test of serving out the period of enlistment, or of honorable discharge. The amendment, on the other hand, is too limited, and will, in my judgment, work a great injustice to many who have nobly signalized themselves in the cause of the Revolution, and are justly entitled to our grateful remembrance. The amendment, sir, confines the benefits of the bill to those alone who served until the end of the war, and debars those who served according to their enlistments for one and two years. It will operate still more unequally when we reflect, that by the language of the amendment, as it now stands, those who entered the service after the capture of Cornwallis, in Octo-

ber, 1781, which was the decisive blow in the conflict, and continued to the end of the war, which from that time was little more than nominal, will be rewarded, whilst those who served in the period from seventeen hundred and seventy-six to seventy-nine—the iron age of the Revolution—will be excluded. I hope this distinction will not be made.

That proviso in the law which obliges invalid pensioners to give up their pensions before they can accept the benefits of this bill, is another very objectionable feature that I cannot assent to. For what, let me ask, sir, is the pension now given to the unfortunate and wounded soldier? It is intended, in some measure, to compensate him for the loss of his limbs; it is designed as a sort of recompense for his privations, and his consequent sufferings. Will you then, sir, in the distribution of your honors and rewards among those who defended the country in arms, underrate the services of those whose mutilated frames are the evidences of those services? The pension you give is a pittance considered in itself; but when compared with the enjoyment and utility of the limb whose loss it is to supply, it is poor indeed. What wealth that you could give from your Treasury, would purchase an arm, a leg, or an eye? And when you are about to confer the reward on valor, will you first tear from the maimed hero the balm that you have given him to staunch his wound? I pray that these victims to their devotion for their country may be suffered to retain this miserable indemnity, and that they may come in for their share, with their more fortunate brethren, of the honorable rewards I hope we shall bestow.

The last objection I shall make, sir, to the bill, is to that clause which provides, that the veteran of the Revolution shall prove himself a pauper to entitle him to the gratitude and reward of his country.

If there are some of these who braved the storm of the Revolutionary war, who are so fortunate as to be wealthy and comfortable in life, and an aversion to confer this bounty on these is the cause of introducing this degrading test, be assured, sir, they are very few in number, and they will never call upon you for the gratuity; or, if they do, it will be to give it to some old and faithful brother soldier who fought by their side; and if such is to be its destination, I sincerely hope they will receive it. But if you defile your intended benevolence with a condition that degrades those who are to receive it, you will frustrate the object of the law; for there are none, I trust, so broken down as not to retain a little spark of a soldier's pride. The high and elevated spirit that would force men from their families, their homes, and their domestic endearments, to risk all that could be dear to the human heart in the field, in defence of a Constitutional principle, cannot bend for a paltry consideration to an act of self-humiliation. That spirit which braved the hazards of the field and the terrors of the law for the establishment of your independence, will not now bend abased before you. It will spurn the polluted bounty you present, and prefer poverty, with all

its pangs, to the ignoble sacrifice of a soldier's feeling. No, sir, it will not do to degrade those you mean to reward. It will not do to see that hand, which once grasped the sword that flashed defiance upon your foes, now lifted in humble, supplicating charity, and trembling with decrepitude and age. What you give, give freely—it will become you. Do not cloud the brow with shame, that you wish to cheer with your benevolence; but remember, that much of every good consists in the manner of conferring it, and that you enhance the merit of every gift by a delicate and tender regard to the feelings of those on whom you bestow it.

With these impressions, I sincerely hope that we shall pass a bill for the relief of the surviving officers and soldiers of the Revolutionary war, in which neither the name of pensioner, nor the test of poverty will be admitted; and that the only proof they will be called on to give, to receive their country's bounty, will be, that they served in the Continental Army in defence of American independence.

I again renew the wish I have before expressed, sir, that the motion for postponement will not prevail, but that we shall all cordially co-operate to complete the great object of this bill, and make it worthy of ourselves and our country. That done, I am persuaded that we shall all feel that we have discharged a great duty, and that every heart will bear testimony to the truth of that sublime and heartfelt precept—that it is better to give than to receive.

When Mr. GOLDSBOROUGH concluded—

The bill was advocated by Messrs. DAGGETT, KING, MORRILL, CRITTENDEN, RUGGLES, LEAKE, FROMENTIN, OTIS, and VAN DYKE; and opposed by Messrs. BARBOUR, MACON, and SMITH.

#### FRIDAY, February 13.

Mr. LACOCK presented the petition of Martin Dubbs, of the city of Philadelphia, praying relief in the settlement of his account for supplies to a large body of militia in the service of the United States, for the defence of the fourth military district, in the autumn of 1814, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. WILLIAMS, of Tennessee, gave notice that to-morrow he should ask leave to bring in a bill for the purchase and distribution of the laws of the United States.

Mr. DAGGETT asked and obtained leave to bring in a resolution, authorizing the further distribution of certain public documents; and the resolution was read, and passed to the second reading.

Mr. MORROW presented the petition of Duncan McArthur, praying to be permitted to locate other lands in lieu of those entered in the land office of Richard C. Anderson, for reasons stated in the petition; which was read, and referred to the Committee on Public Lands.

Mr. LACOCK presented the memorial of a number of journeymen tailors, of the city of Phila-

delphia, praying relief by the imposition of additional duties on the importation of ready-made clothing; and the memorial was read.

The bill, supplementary to the act entitled "An act further extending the time for issuing and locating military land warrants, and for other purposes," was read a third time; the blanks were filled first with "1st of March," and second, with "1st of October," and the bill was passed.

The bill to authorize certain purchasers of public land to withdraw their entries, and transfer the moneys paid thereon, was read a third time, and passed.

The bill for the relief of Richard M. Johnson was read a third time, and passed.

The bill to increase the compensation of certain judges of the courts of the United States, was read the second time.

Agreeably to the special order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill respecting the transportation of persons of color, for sale, or to be held to labor; and, on motion, by Mr. GOLDSBOROUGH, the consideration thereof was further postponed to, and made the order of the day for, Monday next.

The Senate resumed, as in Committee of the Whole the consideration of the bill, entitled "An act for the relief of Major General Arthur St. Clair," and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it was ordered to a third reading.

#### SURVIVING REVOLUTIONARY SOLDIERS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army," together with the amendments reported thereto by the Committee on Military Affairs; and the question recurring on the motion, that the further consideration thereof be postponed until the first Monday in July next, it was determined in the negative—yeas 3, nays 30, as follows:

YEAS—Messrs. Barbour, Macon, and Smith.

NAYS—Messrs. Ashmun, Burrill, Campbell, Crittenden, Daggett, Dickerson, Eppes, Fromentin, Gailard, Goldsborough, Hunter, King, Lacock, Leake, Morrill, Morrow, Noble, Otis, Ruggles, Sanford, Stokes, Storer, Tait, Talbot, Taylor, Troup, Van Dyke, Williams of Massachusetts, Williams of Tennessee, and Wilson.

On motion, by Mr. TALBOT, the further consideration of the bill, together with the amendments, was postponed until Monday next.

The Senate adjourned to Monday morning.

#### MONDAY, February 16.

The PRESIDENT communicated the report of the Secretary of the Treasury, to whom was referred the petition of Robert Sturges; and the report was read, and referred to the Committee on Public Lands.

Mr. DAGGETT presented the petition of Joseph Hall, praying the payment of his commutation of five years' pay, to which he was entitled as

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lieutenant of artillery in the Revolutionary army ; and the petition was read, and referred to the Committee on Military Affairs.

The following Message was received from the PRESIDENT OF THE UNITED STATES:  
*To the Senate of the United States :*

In compliance with a resolution of the 28th January last I now transmit to the Senate a statement of the expenditures upon the public buildings, and an account of their progress, for the year 1818.

JAMES MONROE.

WASHINGTON, February 13, 1818.

The Message and accompanying documents were read.

Mr. TAYLOR presented the petition of the citizens of the town of Vincennes, praying Congress to vest the fee simple of the common adjoining said town in the trustees thereof, for the purpose of draining and selling the same, for reasons stated in the petition ; which was read, and referred to the Committee on Public Lands.

Mr. WILSON submitted the following motion for consideration :

*Resolved*, That the Committee on Post Offices and Post Roads be instructed to inquire into the expediency of establishing a post route from Freehold, in the county of Monmouth, New Jersey, through Squancum, Manasquan, Toms river, Cedar creek, and Nanahawkin, to Tuckerton, in the county of Burlington.

Mr. SMITH presented the petition of Alexander Levie, a soldier in the Revolutionary army, praying payment of arrearages, as stated in the petition ; which was read, and referred to the Committee on Pensions.

Mr. LACOCK presented the petition of a great number of dry good merchants, traders, and master tailors, in the city of Philadelphia, representing their peculiar grievances, and praying relief ; and the petition was read.

A message from the House of Representatives informed the Senate that the House *adhere* to their disagreement to the first amendment *insisted* on by the Senate to the bill, entitled "An act making appropriations for the military service of the United States for the year 1818."

On motion, by Mr. CAMPBELL, the Senate proceeded to consider the report of the Committee of Conference, on their part, made the 12th instant, upon the subject of the disagreeing votes of the two Houses on the bill last mentioned.

Whereupon, on motion, by Mr. CAMPBELL, the Senate resolved to *recede* from their first amendment to the said bill.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans ; and the bill was read, and passed to the second reading.

Mr. TAIT, from the Committee on Naval Affairs, reported a bill to authorize the establishment of naval depots and dock yards ; and the bill was read, and passed to the second reading.

The Senate resumed the report of the Committee on Naval Affairs, to whom were referred the

memorials of certain officers of the Navy, and of the Marine Corps, attached to the Mediterranean squadron ; and the consideration thereof was further postponed until Monday next.

The Senate resumed the consideration of the report of the Committee on the Judiciary, who were instructed to inquire into the expediency of allowing to the judge of the sixth circuit court of the United States, a sum equal to the salary of the judge of the district court of South Carolina, for the term of one year, during which time the said circuit judge was compelled by law to perform the duties of the judge of said district court ; and in concurrence therewith,

*Resolved*, That no compensation, in addition to his regular stated salary, ought to be allowed to the judge of the sixth circuit court of the United States, for the duties devolved upon, and performed by him, in consequence of the disability of the district judge of South Carolina.

The Senate resumed the report of the Committee of Claims, to whom was referred the petition of Weaver Bennet ; and the consideration thereof was further postponed until the second Monday in March next.

The Senate resumed the consideration of the motion of the 12th instant, for instructing the Committee on Public Lands to inquire into the expediency of extending the time allowed by the act, approved May 6, 1812, to present claims to the Secretary of War, for military bounty lands ; and agreed thereto.

On motion, by Mr. EPPES, the further consideration of the bill, entitled "An act for the relief of Major General Arthur St. Clair," was postponed until Thursday next.

The resolution providing for the further distribution of certain public documents, was read the second time.

Mr. WILLIAMS, of Tennessee, asked and obtained leave to bring in a bill to provide for the purchase and distribution of the laws of the United States ; and the bill was read, and passed to the second reading.

On motion, by Mr. GOLDBOROUGH, the consideration of the bill respecting the transportation of persons of color, for sale, or to be held to labor, was further postponed to, and made the order of the day for, Thursday next.

#### ENCOURAGEMENT TO EMIGRANTS.

Mr. SANFORD presented the memorial of the New York Irish Emigrant Association, praying that a portion of unsold lands (in the Illinois Territory) may be set apart, or granted to trustees, for the purpose of being settled by emigrants from Ireland, on an extended term of credit, as stated in the memorial ; which was read, and referred to the Committee on Public Lands.

The memorial is as follows :

*To the honorable the Senate and House of Representatives of the United States of America in Congress assembled.*

The memorial of the New York Irish Emigrant Association respectfully sheweth : That your memorialists, while they presume most respectfully to solicit

your attention to the helpless and suffering condition of the numerous foreigners who, flying from a complicated mass of want and misery, daily seek an asylum in the bosom of the United States, are emboldened by the recollection that a liberal encouragement to the settlement of meritorious strangers has always characterized the Government and constituted authorities of the Union. The wise and brave founders of its independence held out to the oppressed and suffering of every nation the consoling assurance that in this country, at least, they should find a refuge and a home. The successors of these illustrious men have continued to redeem, in calmer and happier times, the pledge made to philosophy and benevolence amidst perilous scenes of distress and difficulty. From this humane and beneficent policy America has reaped a rich and happy harvest. She has added to the national resources the moral and physical strength to be derived from so many thousands and tens of thousands, who, actuated by attachment to her free Constitution, have adopted the nation where liberty has made, and is making, her most glorious stand, as the country of their choice.

Your memorialists, in addressing your honorable body, need not seek to enforce by argument the generally received maxim of political economy that the wealth and solidity of a nation consist in the number, the social comforts, and the productive industry of its people. In the dense and crowded States, and under the existing Governments of Europe, these sources of wealth and stability are not always found well combined. It frequently does not happen that the social comforts, or even the productive industry, are proportioned to the number of the people. In the extended territory and scattered population of the United States, however, and under their free and blessed institutions, it is an unquestionable and important truth, that every increase of inhabitants, when wisely and judiciously distributed and settled, adds to the social comforts and productive industry of the whole, and that the excess of population, which cannot be considered as giving stability to the various Governments of Europe, if suffered or encouraged to settle here, would incalculably increase our wealth and strength. But that accession is doubly valuable which also brings to the common fund, with a mass of laborious industry, unalterable attachment to the laws and constitution of the country. And, surely, to give a wise direction to that industry, and to secure by well-placed kindness that attachment, are among the noblest exercises of legislative authority.

Your memorialists beg leave respectfully to represent that at no period since the establishment of American independence have the people of Europe, particularly the laboring classes, discovered so great a disposition as at present to emigrate to the United States. But the people of Ireland, from the peculiar pressures under which that country has so long been placed, have flocked hither in the greatest number, and perhaps under the most trying and necessitous circumstances. They come, indeed, not to return and carry back the profits of casual speculations, but to dedicate to the land of their hopes their persons, their families, their posterity, their affections, their all.

It is, however, a truth, regretted by those who have the best means of observation, that, for want of guides to their steps, and congenial homes, where all their honest energies might be called at once into activity, and their hardy enterprise turned to their own advantage, as well as to the general good, they remain perplexed, undecided, and dismayed, by the novelty and

difficulty of their situations. They have fled from want and oppression—they touch the soil of freedom and abundance; but the manna of the wilderness melts in their sight. Before they can taste the fruits of happy industry, the tempter too often presents to their lips the cup that turns man to brute, and the very energies which would have made the fields to blossom make the cities groan. Individual benevolence cannot reach this evil. Individuals may indeed solicit, but it belongs to the chosen guardians of the public weal to administer the cure. Nor is the misdirection or the destruction of the capabilities and industry of these emigrants to be regretted only on its own account. The story of their blasted hopes and fortunes is transmitted back, and retailed with malicious exaggeration. Others, possessing more abundant means and more prudent habits, who have been accustomed to look with longing eyes to this free country, and contrast its happiness with the present state of Europe, are discouraged and deterred by their sufferings and misfortunes; and thus a large current of active population and wealth, inclined to flow into and enrich the United States, is dammed up at the fountain-head. A serious consideration of these circumstances induce your memorialists to hope, and most earnestly but respectfully to request, on behalf of those whose interests they urge, that a portion of unsold lands may be set apart or granted to trustees, for the purpose of being settled by emigrants from Ireland, on an extended term of credit. The conditions of this grant your memorialists wish to be such as may give to the settlers its entire benefit, and may exclude all private speculation in others. They also beg leave to suggest, after contemplating the various uncultivated tracts which invite the labor of man, that a situation adapted for a settlement of that description might be found among the lands lately purchased in the Illinois Territory.

Your memorialists are fully sensible that many of the most persuasive arguments in favor of their application must be addressed, and will not be addressed in vain, to the benevolence and sympathies of the Legislature; but they also confidently appeal to its wisdom and patriotism. The lands to which they have alluded, being frontier and remote, are neither likely to be speedily exposed to sale, to be rendered by cultivation subservient to the general prosperity, nor by settlement conducive to the general strength. The portion which might be granted on extended credit would probably be paid for almost as soon as if it had not been brought into the market before its regular turn. During that time, in which it would otherwise remain unproductive, (and therefore unprofitable,) thousands of families would have acquired opulence, would have benefited the country by its cultivation, by the establishing of schools, the opening of roads, and the other improvements of social and civilized life. They would form a nucleus round which a more abundant population would rapidly accumulate, and all the contiguous lands would be largely increased in value. The small loss which might appear to be sustained by the suspension of interest on the credit (if it should have any existence) will be abundantly compensated by the money and labor that must be almost immediately expended on works of general utility, which the convenience and necessities of the settlers will naturally induce them to accomplish. But who can calculate the physical or moral, or even the pecuniary advantages in time of war, of having such a strong and embattled frontier?

FEBRUARY, 1818.

*Great Britain—Extra Duties.*

SENATE.

The Irish emigrant, cherished and protected by the Government of the United States, will find his attachment to their interest increase in proportion to the benefits he has received. He will love with enthusiasm the country that affords him the means of honorable and successful enterprise, and permits him to enjoy unmolested and undiminished the fruits of his honest industry. Ingratitude is not the vice of Irishmen. Fully appreciating his comparative comforts, and the source from whence they flow, he will himself cherish, and will inculcate on his children, an unalterable devotion to his adopted and their native country. Should hostilities approach her in that quarter, whether in the savage forms of the tomahawk and scalping-knife, or with the deadlier weapon of civilized warfare, the Irish settlers, with their hardy sons, will promptly repel the invasion, drive back the war upon the enemy, and give to our extended frontier security and repose.

Your memorialists therefore humbly pray your honorable body to receive and listen favorably to their application. And, as in duty bound, they will ever pray, &c.

On behalf of the New York Irish Emigrant Association :

New York, December, 1817.

THOS ADDIS EMMET, *President.*

DANIEL McCORMICK, *Vice President.*

JAMES McBRIDE, *2d Vice President.*

ANDREW HERRIS, *Treasurer.*

JOHN W. MULLIGAN, *Secretary.*

WILLIAM SAMPSON, *Secretary.*

Wm. J. Macnevan,

James Sterling,

Mat. L. Davis,

Wm. Edgar, jr.

J. Chambers,

Matthew Carroll,

Thomas Kirk,

John Mayhue,

D. H. Doyle,

John Heffernan,

John R. Skiddy,

Dennis McCarthy,

Robert Fox,

James R. Mullany.

R. Swanton.

#### SURVIVING REVOLUTIONARY SOLDIERS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army;" together with the amendments reported thereto by the Committee on Military Affairs.

The question under consideration was a motion made some days ago by Mr. KING to recommit the bill, with instructions to the committee so to amend it as to confine its provisions to a grant of half-pay for life to such of the surviving officers (alone) of the Revolutionary Army as served for three years, or to the end of the war; including those entitled to half-pay for life by any resolve of Congress, the half-pay to be ascertained according to rank, by which the accounts of the officers were finally settled.

The debate was resumed on this subject, and continued till a late hour; in the course of which Mr. KING withdrew his motion to recommit the bill.

The question then recurred on the amendment reported to the bill by the Military Committee, (to confine its application to those who served to the end of the war;) when a motion was made by Mr. GOLDSBOROUGH, and agreed to, to amend

the amendment by inserting the words "or those who served — years."

Mr. CRITTENDEN moved to strike out the words "on Continental establishment," so as to include the militia who served the requisite period; which motion was pending when the Senate adjourned.

The gentlemen who took part in the discussion this day were MESSRS. GOLDSBOROUGH, LACOCK, TICHENOR, OTIS, MORRIL, EPPES, CRITTENDEN, DAGGETT, BURRILL, MACON, and SMITH.

TUESDAY, February 17.

Mr. BARBOUR presented the petition of Samuel Miller, a brevet major of Marines, praying payment of the amount of his necessary expenses as bearer of despatches to France, as well as other advances for the service of the United States, and compensation for the loss of baggage, &c., occasioned by the destruction of the Marine barracks at Washington, in August, 1814; and the petition was read, and referred to the Committee of Claims.

A message from the House of Representatives informed the Senate that the House had passed a resolution, directing the Judges of the Supreme Court to be furnished with Wait's State Papers, in which they request the concurrence of the Senate.

Mr. GOLDSBOROUGH presented the memorial of Luke Tiernan and others, in behalf of the Hibernian Society of Baltimore, praying that provision may be made for granting to the emigrants from Ireland a tract of land in the Illinois Territory, on a more extended credit than is now allowed by law; and the memorial was read, and referred to the Committee on Public Lands.

Mr. DAGGETT presented the petition of Phineas Meigs, of Guilford, Connecticut, praying compensation for a house destroyed by the enemy during the late war with Great Britain; and the petition was read, and referred to the Committee of Claims.

Mr. MORRIL, from the Committee of Claims, to whom was referred the petition of John Stockton, made report, together with the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition.

The report and resolution were read.

The Senate resumed the consideration of the motion of the 16th instant, for instructing the Committee on Post Offices and Post Roads, to inquire into the expediency of establishing a certain post route, and agreed thereto.

The bill to authorize the establishment of naval depots and dock yards was read the second time.

#### GREAT BRITAIN—EXTRA DUTIES.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of Representatives:*

I lay before the House of Representatives copies of two communications received at the Department of State from the Minister of Great Britain, and submit



to their consideration the propriety of making such legislative provisions as may be necessary for a compliance with the representations contained in them.

By the express terms of that compact it was, when ratified by the two Governments, to be in force for the term of four years from the day of its signature. The revocation of all the discriminating duties became, therefore, the obligation of both Governments from that day, and it is conceived that every individual who has been required to pay, and who has paid, any of the extra duties revoked by the Convention, has a just and lawful claim upon the respective Governments for its return. From various accidents it has happened that, both here and in Great Britain, the cessation of the extra duties has been fixed to commence at different times. It is desirable that Congress should pass an act, providing for the return of all the extra duties, incompatible with the terms of the Convention, which have been levied upon British vessels or merchandise, after the 3d of July, 1815. The British Parliament have already set the example of fixing that day for the cessation of the extra duties of export, by their act of 30th of June last, and the Minister of the United States in London is instructed to require the extension of the same principle to all the extra duties levied on vessels and merchandise of the United States in the ports of Great Britain since that day. It is not doubted that the British Government will comply with this requisition, and that the act suggested may be passed by Congress, with full confidence that the reciprocal measure will receive the sanction of the British Parliament.

JAMES MONROE.

WASHINGTON, Feb. 12, 1818.

*Mr. Bagot, Envoy Extraordinary and Minister Plenipotentiary, to Mr. Monroe, Secretary of State.*

WASHINGTON, Nov. 18, 1816.

SIR: I have the honor to call your attention to one of the provisions of an act of the United States Congress, passed on the 27th of April last, entitled "An act to regulate the duties on imports and tonnage," which appears to have originated in some misapprehension of the real nature of one of the principal manufactures of Great Britain, and which has had an operation not only very prejudicial to the British manufacturer, but contrary, as it should seem, to the spirit and intent of the second article of the commercial treaty.

By the second article of the commercial treaty between Great Britain and the United States, it is stipulated "that no higher duties shall be imposed on the importation of any articles, the growth, produce, or manufacture of His Britannic Majesty's Territories, in Europe, than are, or shall be, payable on the like articles, being the growth, produce, or manufacture of any other foreign countries."

By the act of the United States to which I have referred, it is, among other things, enacted in the 6th section, that, upon importation into the United States, iron in bars and bolts, except iron manufactured by rolling, shall pay a duty of 45 cents per cwt., and that in bars and bolts, when manufactured by rolling, and anchors, it shall pay a duty of 150 cents per cwt.

It was probably not known that the bar and bolt iron, manufactured in Great Britain, is in the last process rolled, whereas the same article, both in Sweden and in Russia, instead of being rolled, is, in the

same process, hammered; but when the iron is manufactured into bar or bolt, whether by rolling or hammering, it is in precisely the same progress of manufacture, and is in every respect applicable to the same purposes of use and ulterior manufacture, and consequently is, to all intents, a "like article." But, by the inequality of the duties which have been imposed, it seems to have been imagined that rolled bar and bolt iron is in a stage of manufacture beyond that of hammered iron; and you will observe that this supposition is strengthened by the circumstance of its being classed with anchors, which are in a state of complete and finished manufacture, and are worth £35 per ton in the British market, whilst bar and bolt iron is only worth £11 per ton.

It is to be assumed that, whenever duties are imposed on any foreign article, in a graduated scale proportioned to its manufactured state, it is intended that the duty should be regulated by that state alone, and not by the process by which it is brought to that state.

Iron, in a certain state of manufacture, is to be charged with a certain duty. The means of bringing it to that state, whether by hammering or rolling, is not to be had in consideration; for if it were, the effect would be to force each nation to use exactly the same process, and, what certainly never could have been intended, to check and punish the application of ingenuity and improvement.

Considering, therefore, that the bar and bolt iron manufactured in Great Britain is, according to the true spirit and intent of the second article of the treaty of commerce, in every respect a "like article" with that manufactured in Sweden and Russia, it is hoped that such measures will be taken by the Government of the United States as will allow of its admission to importation at the same rate of duty, and will place the British manufacturer in that state of equality, in respect to foreign nations, as may accord with the undoubted intention of the late treaty of commerce between the two countries.

I have the honor to be, with the highest consideration, sir, your most obedient humble servant,

CHARLES BAGOT.

*Mr. Bagot, Envoy Extraordinary and Minister Plenipotentiary, to Mr. Adams, Secretary of State.*

WASHINGTON, Dec. 8, 1817.

SIR: In my letter to the Secretary of the Department of State of the 9th of July, 1816, I had the honor to point out the difference of the periods at which effect had been given, in the two countries, to the Convention of the 3d of July, 1815, and to request that all discriminating duties of a nature similar to those described in His Royal Highness the Prince Regent's Order in Council of the 17th of August, 1815, which might have been levied between the date of that order and the 22d of the following December, upon goods imported into the United States in British-built ships, might be refunded.

No mention having been made in His Royal Highness's Order in Council of alien tonnage duties, they were not adverted to in the application which I had then the honor to make; but as it was known that they had in fact been remitted by Great Britain, the American Legislature, in strict observance of the spirit and intention of the Convention, included them in the act passed on the 3d of last March, authorizing the Secretary of the Treasury to cause repayments to be made of certain alien duties. By this act, how-

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*Surviving Officers of the Revolution.*

SENATE.

ever, it was only provided that the alien tonnage duties levied upon British ships in American ports subsequently to the 17th of August, 1815, should be refunded; whereas the same duties levied upon American ships in British ports, were remitted from the date of the signature of the Convention.

In order, therefore, that His Majesty's subjects may partake of the full benefit of the reciprocity intended by the Convention, I have the honor to request that remission may also be made of the alien tonnage duties which may have been levied upon British ships in the ports of the United States between the 3d of July and the 17th of August, 1815.

I have the honor to be, with the highest consideration, sir, your most obedient humble servant,

CHARLES BAGOT.

The Message and communications therein referred to were read, and referred to the Committee on Finance.

The bill to provide for the purchase and distribution of the laws of the United States was read the second time.

#### SURVIVING SOLDIERS OF THE REVOLUTION.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army," together with the amendments reported thereto, by the Committee on Military Affairs.

The motion, made yesterday by Mr. CRITTENDEN, to amend the bill so as to include the militia of the Revolution, was first under consideration; and, after some debate, in which Messrs. OTIS and TAIT opposed the motion, it was negatived—ayes 7.

Mr. DAGGETT proposed to strike out the words "mariner and marine," to exclude these classes from the benefit of the provision. The motion was supported by the mover and by Mr. KING; and opposed by Messrs. TAIT, EPPES, and BURRILL, and finally lost—ayes 7.

An amendment was then taken up, reported by the Military Committee, requiring the pensions already granted by the General and State Governments to be relinquished, to entitle an applicant to the benefit of this bill.

This proposition produced considerable discussion, in which Messrs. WILLIAMS of Tennessee, OTIS, VANDYKE, LACOCK, TALBOT, EPPES, GOLDSBOROUGH, and MORRIL, bore a part. Before the question was taken,

Mr. OTIS moved to strike out the word "incapacitated," so that no proof of poverty be required. This motion was advocated by Messrs. OTIS and DAGGETT; and opposed by Messrs. WILSON, EPPES, MORRIL, and TALBOT—but, before a decision took place, the Senate adjourned.

WEDNESDAY, February 18.

Mr. HUNTER presented the memorial of the President, Directors, and Company, of the Merchants' Bank, of Newport, Rhode Island, praying the repayment of certain stamp duties, for reasons stated in the memorial; which was read,

and referred to the Committee on Commerce and Manufactures.

Mr. LACOCK presented the petition of Benjamin Wells, of the State of Pennsylvania, praying compensation for his services as forage-master, in the years 1779 and 1780, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom the subject was referred, reported a bill to reduce the staff of the Army; and the bill was read, and passed to the second reading.

Mr. MORROW presented the petition of William Rector, surveyor of the public lands in the Missouri and Illinois Territories, praying additional compensation for past and future services, for reasons stated in the petition; which was read, and referred to the Committee on Public Lands.

On motion, by Mr. CRITTENDEN, the Committee on the Judiciary, to whom was referred the petition of Thomas Hall Jervey, surveyor and inspector for the port of Charleston, were discharged from the further consideration thereof; and, on motion by Mr. SMITH, it was referred to the Committee of Claims.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act to provide for delivering up persons held to labor or service in any of the States or Territories who shall escape into any other State or Territory," reported the same with amendments; which were read.

Mr. WILSON presented the petition of William Gamble, praying compensation for certain services, as stated in the petition; which was read, and referred to the Committee of Claims.

The resolution, brought up yesterday for concurrence, was read, and passed to the second reading.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred a statement from the Treasury Department, showing the amount of duty which accrued on salt imported during the years 1815 and 1816, and from the 1st of January to the 30th of June, 1817; together with the amount paid for bounty on pickled fish exported, and for allowances to vessels employed in the fisheries during that period, with instructions to inquire into the expediency of repealing the law laying that duty; and, in concurrence therewith, resolved that it is not expedient to repeal the law imposing a duty on salt.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act fixing the compensations of the Secretary of the Senate and Clerk of the House of Representatives, and of the clerks employed in their offices;" in which bill they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

The PRESIDENT communicated a report of the Secretary of War, showing the expenditure of the moneys appropriated for the contingent ex-

penses of the Military Establishment for the year 1817; and the report was read.

Mr. BARBOUR submitted the following motion for consideration:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of changing the mode of supplying the troops of the United States by contract, and substituting one cheaper and more efficient, by subjecting the parties undertaking that duty, to military law, in case of delinquency.

The bill adjusting claims to land, and establishing land offices in the districts east of the Island of New Orleans, was read the second time.

Mr. BARBOUR, from the committee to whom was referred the resolution for an amendment to the Constitution of the United States, in relation to internal improvements, reported the same without amendment.

On motion, by Mr. DICKERSON, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States, be further postponed to, and made the order of the day for, Wednesday next.

#### REVOLUTIONARY PATRIOTS.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army," together with the amendments reported thereto by the Committee on Military Affairs.

The consideration of this subject again produced a good deal of debate, chiefly on its details and propositions to alter various features of the bill. The discussion was conducted by Messrs. NOBLE, OTIS, TALBOT, LACOCK, BURRILL, EPPES, MORRIL, GOLDSBOROUGH, and VAN DYKE.

Mr. TALBOT moved to strike out of the first section of the bill, after the word "States," in the tenth line, the following words: "and are, or who hereafter shall be, reduced to indigence, and incapable of procuring subsistence, and who shall have substantiated his said incapacity, in the manner hereinafter directed;" and to add to said bill the following proviso: "Provided, That the benefits of this act shall not extend to any officer whose estate, at the time of such application, is of the value of — dollars, or to any musician or private soldier, whose estate shall, at the time of his application for such pension, be worth the sum of — dollars."

Mr. BURRILL called for a division of the question, and it was taken on striking out the words proposed, and determined in the negative—yeas 14, nays 18, as follows:

YEAS—Messrs. Burrill, Crittenden, Daggett, Fromentin, Goldsborough, Hunter, King, Otis, Stokes, Storer, Talbot, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Barbour, Dickerson, Eppes, Gailard, Lacock, Leake, Macon, Morrill, Morrow, Noble, Roberts, Ruggles, Sanford, Smith, Tait, Taylor, Tichenor, and Wilson.

On motion, by Mr. WILSON, the bill, as amended, was ordered to be printed for the use of the Senate.

THURSDAY, February 19.

DANIEL D. TOMPKINS, Vice President of the United States and President of the Senate, attended, and took the Chair.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom the subject was referred, reported a bill regulating the pay and emoluments of brevet officers; and the bill was read, and passed to the second reading.

Mr. TICHENOR submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to inform the Senate, what requisitions were made upon the contractors between the first day of June, 1817, and the 24th of December, of the same year, for deposits of provisions in advance, at the several posts on the frontiers of Georgia and in the adjoining Territory, specifying the date of such requisition, the amount of deposit required, and by whom made.

Mr. LACOCK presented the memorial of the Philadelphia Irish emigrant association, praying that provision may be made for granting to the emigrants from Ireland a tract of land in the Illinois Territory, on a more extended credit than is now allowed by law; and the memorial was read, and referred to the Committee on Public Lands.

Mr. SMITH presented the memorial of David Bailey, of Charleston, South Carolina, praying to be allowed the amount payable by law on certain wines, as stated in the memorial; which was read, and referred to the Committee of Claims.

Mr. TICHENOR presented the petition of John Sargent, of Vermont, praying a pension, for reasons stated in the petition; which was read, and referred to the Committee on Pensions.

Mr. WILLIAMS, of Tennessee, presented the petition of David Tate, of Tennessee, praying payment for services as a sergeant in the Revolutionary war, as stated in the petition; which was read, and referred to the Committee on Pensions.

The bill entitled "An act for the relief of Major General Arthur St. Clair," was read a third time.

On motion by Mr. MACON, it having been agreed to take the question on the final passage of the bill, by yeas and nays, a motion was made by Mr. ROBERTS, that the bill be referred to the Committee on Pensions, with instructions to reduce the sum to be allowed as a pension, so as not to exceed that allowed by law to a Lieutenant Colonel; it was determined in the negative—yeas 14, nays 17, as follows:

YEAS—Messrs. Barbour, Campbell, Dickerson, Eppes, Lacock, Leake, Macon, Morrill, Roberts, Ruggles, Smith, Stokes, Tichenor, and Williams of Tennessee.

NAYS—Messrs. Burrill, Daggett, Fromentin, Gailard, Goldsborough, Hunter, King, Morrow, Noble, Otis, Sanford, Storer, Tait, Talbot, Taylor, Van Dyke, and Wilson.

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Mr. SMITH moved to postpone the bill until tomorrow.—Negatived.

Mr. SMITH then commenced a speech against the bill; when an adjournment was moved and carried.

The gentlemen who participated in the debate on the subject of this bill, were Messrs. EPPES, CAMPBELL, OTIS, BARBOUR, NOBLE, MORRIL, FROMENTIN, DAGGETT, KING, TALBOT, MORROW, and VAN DYKE.

FRIDAY, February 20.

The PRESIDENT communicated the memorial of the Governor and Judges of the Territory of Michigan, praying that the boundary line between that Territory and State of Ohio may be run and established, agreeably to the provisions of the ordinance of Congress of 1817, and of the several acts of Congress heretofore passed upon the subject; and the memorial was read, and referred to the Committee on Public Lands.

Mr. MORROW presented the memorial of Jonathan Elliot, praying the patronage of Congress for the publication of Domestic State Papers; and the memorial was read, and referred to the Committee on the Judiciary.

The Senate resumed the consideration of the report of the Committee on the Judiciary, to whom was referred the memorial of James Brobson, marshal of the district of Delaware, praying for some additional compensation to be made to him; and in concurrence with the report, resolved that the petitioner have leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of John Stockton; and the further consideration thereof was postponed until Tuesday next.

The Senate resumed the consideration of the motion of the 18th instant, for instructing the Committee on Military Affairs to inquire into the expediency of changing the mode of supplying the troops of the United States by contract, and substituting one cheaper and more efficient, by subjecting the parties undertaking that duty to military law, in case of delinquency; and agreed thereto.

The Senate resumed the consideration of the motion of the 19th instant, requesting information of what requisitions were made upon the contractors, between the first day of June, 1817, and the 24th of December, of the same year, for deposits of provisions in advance, at the several posts on the frontiers of Georgia, and in the adjoining Territory, specifying the date of such requisition, the amount of deposit required, and by whom made. Whereupon,

Mr. WILLIAMS, of Tennessee, submitted the following as a substitute therefor:

*Resolved*, That the President of the United States be requested to inform the Senate in what particular instances Benjamin G. Orr, contractor, has failed to furnish rations agreeably with his contract to the troops of the United States, and the amount of money

advanced by the Government for supplies in consequence of such failures; and, also, the amount of money advanced by the Government to said Benjamin G. Orr, at or before the time of said failures.

On motion by Mr. TICHENOR, it was agreed that the further consideration thereof be postponed until Monday next.

Mr. WILSON submitted the following motion for consideration:

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate a list of all the pensioners of the United States, the sum annually paid to each, and the States or Territories in which the said pensions are respectively paid.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the petition of Henry Jones, made report, together with the following resolution:

*Resolved*, That the petitioner have leave to withdraw his petition.

The resolution and report were read.

The Senate resumed the bill, entitled "An act for the relief of Major General Arthur St. Clair," it having been previously read a third time.

Mr. BARBOUR and Mr. MORRIL spoke in opposition to the bill, and Mr. KING in its support; when on the question, "Shall this bill pass?" it was determined in the affirmative—yeas 21, nays 10, as follows:

YEAS—Messrs. Burrill, Crittenden, Daggett, Fromentin, Gaillard, Goldsborough, Hunter, King, Morrow, Noble, Otis, Ruggles, Sanford, Stokes, Storer, Tait, Talbot, Taylor, Van Dyke, Williams of Tennessee, and Wilson.

NAYS—Messrs. Barbour, Dickerson, Eppes, Lacock, Leake, Macon, Morrill, Roberts, Smith, and Tichenor.

So it was resolved, that this bill pass.

The bill to reduce the staff of the Army was read the second time.

The bill entitled "An act fixing the compensation of the Secretary of the Senate and Clerk of the House of Representatives, and of the clerks employed in their offices," was read a second time, and referred to a select committee to consider and report thereon; and Messrs. ROBERTS, DAGGETT, and FROMENTIN were appointed the committee.

The resolution directing the Judges of the Supreme Court to be furnished with Wait's State Papers, was read a second time, and referred to the Committee on the Judiciary.

The bill regulating the pay and emoluments of brevet officers, was read the second time.

The Senate adjourned to Monday morning.

MONDAY, February 23.

Mr. STORER presented the petition of Jacob Wendell and others, of Portsmouth, New Hampshire, owners of certain fishing vessels which were captured by the British, carried in and detained in Nova Scotia, praying the usual bounty, upon proofs of the facts, or some other relief; and the petition was read, and referred to the Committee on Commerce and Manufactures. Whereupon,

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Mr. STORER submitted the following motion for consideration :

*Resolved*, That the Committee of Commerce and Manufactures, to whom was referred the petition of Jacob Wendell and others, owners of fishing vessels, detained in Nova Scotia, be instructed to inquire into the expediency of providing by law for cases of a similar nature.

The Senate resumed the report of the Committee on Pensions, to whom was referred the petition of Elijah Rice; and the consideration thereof was further postponed until Thursday next.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Henry Jones; and in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the motion of the 19th instant, requesting information of what requisitions were made upon the contractors for deposits of provisions in advance, at the several posts on the frontiers of Georgia, and in the adjoining Territory, together with the substitute proposed therefor; and the consideration thereof was postponed until to-morrow.

The Senate resumed the consideration of the motion of the 20th instant, for requesting a list of all the pensioners of the United States, the sum annually paid to each, and the States or Territories in which the said pensioners are respectively paid; and agreed thereto.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was referred the resolution directing the Judges of the Supreme Court to be furnished with "Wait's State Papers," reported it without amendment.

The Senate resumed the report of the Committee on Naval Affairs, to whom were referred the memorials of certain officers of the Navy and of the Marine Corps attached to the Mediterranean squadron; and the consideration thereof was further postponed to, and made the order of the day for, Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army;" and the bill having been further amended, the PRESIDENT reported it to the House accordingly; and the first and second amendments having been concurred in, the further consideration of the bill was postponed until to-morrow.

A message from the House of Representatives informed the Senate that the House, in testimony of their respect for the memory of the late PETERSON GOODWYN, one of their body, from the State of Virginia, have, unanimously, resolved to wear crape on the left arm for one month.

TUESDAY, February 24.

Mr. GOLDSBOROUGH presented the memorial of John Adlum, proposing to introduce the cultivation of native grapes, and for that purpose praying the lease of one hundred acres of a public

reservation of land in the city of Washington, on the conditions therein expressed; and the memorial was read, and referred to the Committee on the District of Columbia.

On motion by Mr. TAIT,

*Resolved*, That the Senate, as a testimony of respect for the memory of PETERSON GOODWYN, late a member of the House of Representatives from the State of Virginia, will go into mourning, and wear crape round the left arm for thirty days.

Mr. KING presented the petition of Samuel Ward, of New York, praying the renewal of a final settlement certificate, which was lost in the mail, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. TAYLOR presented the petition of John Small, of Knox county, in the State of Indiana, praying the confirmation of his title to a tract of land in that State; and the petition was read, and referred to the Committee on Public Lands.

Mr. LACOCK presented the petition of James Moore, of Pennsylvania, praying compensation for services performed in the Revolutionary war, as stated in the petition; which was read, and referred to the Committee of Claims.

Mr. HORSEY presented the petition of John Killgene, stating, that agreeably to his contract with Joshua Humphreys, Esq., an authorized agent of the United States, he delivered to him a quantity of timber, for the purpose of building a seventy-four gun ship, for which timber he has received no compensation, and praying relief; and the petition was read, and referred to the Committee of Claims.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill extending the time for obtaining military land warrants in certain cases; and the bill was read, and passed to the second reading.

Mr. MORROW, from the same committee, to whom the subject was referred, also reported a bill respecting certain sections of land in the State of Ohio, reserved for the purposes of religion; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of John Stockton; and in concurrence therewith, resolved, that the petitioner have leave to withdraw his petition.

The Senate resumed the consideration of the motion of the 19th instant, requesting information of what requisitions were made upon the contractors for deposits of provisions in advance, at the several posts on the frontiers of Georgia and the adjoining territory, together with the substitute proposed therefor; and the said substitute having been withdrawn, the original motion was amended, and agreed to as follows:

*Resolved*, That the President of the United States be requested to inform the Senate what requisitions were made upon the contractors, between the 1st day of June, 1817, and the 24th of December, of the same year, for deposits of provisions in advance, at the several posts on the

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frontiers of Georgia, and in the adjoining territory, specifying the date of such requisition, the amount of deposit required, and by whom made. And also the particular instances in which B. G. Orr, contractor, has failed to furnish rations agreeably to his contract; the amount of money advanced by the Government for supplies in consequence of such failures; and also the amount of money advanced by the Government to said B. G. Orr at or before the time of said failures; and also to furnish the Senate with a copy of the articles of contract entered into with the said B. G. Orr, for supplying the army under the command of General Gaines with provisions.

The Senate resumed the consideration of the motion of the 23d instant, for instructing the Committee of Commerce and Manufactures to inquire into the expediency of providing, by law, for cases of fishing vessels being detained in Nova Scotia; and agreed thereto.

Mr. BURRILL gave notice that to-morrow he should ask leave to bring in a bill in addition to an act to promote the progress of useful arts.

The Senate resumed the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army; and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill respecting the transportation of persons of color for sale, or to be held to labor; and the further consideration thereof was postponed until to-morrow.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with a resolution of the Senate, requesting me to cause to be laid before them a statement of all the arms and accoutrements which have been manufactured at the different armories of the United States, with the cost of each stand; and the number delivered to each State respectively, under the act for arming the whole body of militia, I now transmit a report from the Secretary of War, with the documents marked A, B, and C, which, together with a report to him, from the Ordnance department, contains the information required.

JAMES MONROE.

WASHINGTON, Feb. 23, 1818.

The Message and accompanying reports and documents were read.

The following Message was also received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with a resolution of the Senate of the 19th January, 1818, requesting information of measures which have been taken in pursuance of so much of the act to authorize the appointment of a surveyor for lands in the northern part of the Mississippi Territory, passed the 3d of March, 1817, as relates to the reservation of certain sections for the purpose of laying out and establishing towns thereon, I now transmit a report from the Secretary of the Treasury, which, with the letters and charts referred to in it, contains all the information which is desired.

JAMES MONROE.

WASHINGTON, Feb. 23, 1818.

The Message and accompanying report and documents were read, and referred to the Committee on Public Lands.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to alter and amend an act approved the 3d day of March, 1817, entitled "An act to establish a separate Territorial government for the eastern part of the Mississippi Territory," together with the amendments reported thereto by the Committee on the Judiciary; and the amendments having been agreed to, the PRESIDENT reported the bill to the House accordingly, and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution providing for the distribution of the 6th volume of the Laws of the United States, and the further consideration thereof was postponed until Monday next.

On motion by Mr. CAMPBELL, the Committee on the Public Lands were instructed to inquire into the expediency of enlarging the district of the surveyor of the lands in the northern part of the Alabama Territory and State of Mississippi, and of increasing his present compensation; and also into the expediency of reserving from sale certain sections of lands in the Alabama Territory, for the purpose of laying out and establishing towns thereon.

Mr. ROBERTS presented the memorial of Richard H. Wilcocks, of the city of Philadelphia, praying for the renewal of the register of a certain ship Augustus, for reasons stated in the memorial; which was read, and referred to the Committee on Commerce and Manufactures.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution for the further distribution of certain public documents; and the further consideration thereof was postponed until the first Monday in July next.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution for an amendment to the Constitution of the United States in relation to internal improvements, and the further consideration thereof was postponed until Tuesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the purchase and distribution of the Laws of the United States; and on motion by Mr. WILLIAMS, of Tennessee, it was referred to a select committee, and Mr. WILLIAMS, of Tennessee, Mr. ROBERTS, and Mr. WILSON were appointed the committee.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Anderson;" and the further consideration thereof was postponed.



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WEDNESDAY, February 25.

Mr. TAYLOR, from the Committee on Public Lands, to whom the subject was referred, reported a bill to adjust the claims to lots in the town of Vincennes, and for the sale of the land appropriated as a common, for the use of the inhabitants of the said town; and the bill was read, and passed to the second reading.

Mr. ROBERTS, from the committee to whom was referred the bill, entitled "An act fixing the compensation of the Secretary of the Senate and Clerk of the House of Representatives, and of the clerks employed in their offices," reported the same with amendments, which were read.

Mr. DICKERSON, from the Joint Library Committee, to whom was referred the memorial of Thomas B. Wait, and Sons, made report, accompanied by a bill, authorizing a subscription for the eleventh volume of State Papers; and the report and bill were read, and passed to the second reading.

Mr. SANFORD presented the petition of John Troup, of the city of New York, praying the remission of the forfeiture of a vessel and cargo, condemned for a violation of the laws of the United States, for reasons stated in the petition; which was read, and referred to the Committee of Claims.

The bill extending the time for obtaining military land warrants in certain cases, was read the second time.

The bill respecting certain sections of land in the State of Ohio, reserved for the purpose of religion, was read the second time.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the support of the Navy of the United States, for the year 1818;" and also, a bill, entitled "An act for altering the time for holding the district court for the district of Virginia;" in which bills they request the concurrence of the Senate.

The two bills last mentioned were read, and severally passed to the second reading.

The bill to alter and amend an act, approved the 3d day of March, 1817, entitled "An act to establish a separate Territorial government for the eastern part of the Mississippi Territory, was read a third time, and passed.

The Senate, agreeably to the order of the day, resumed, as in Committee of the Whole, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States; and on motion by Mr. DICKERSON, the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Israel Smith;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and the consideration thereof was further postponed until tomorrow.

Mr. BURRILL asked and obtained leave to bring in a bill, in addition to an act, entitled "An act to promote the progress of the useful arts;" and the bill was twice read, by unanimous consent, and referred to the committee to whom was referred, on the 11th instant, the bill to promote the progress of useful arts, and to repeal the acts heretofore made for that purpose.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the salaries of the judges of the circuit court for the District of Columbia, and the blank having been filled with "500," the PRESIDENT reported the bill to the House; and it was ordered to be engrossed and read a third time.

Mr. LACOCK presented the memorial of Charles Biddle, and others, a committee on behalf of the surviving officers of the Revolutionary Army, praying an equitable settlement of the half pay for life, as promised by the resolves of Congress; and the memorial was read, and referred to the Committee on Military Affairs.

Mr. ROBERTS presented the memorial of Anthony Chardon, and others, of Philadelphia, manufacturers of paper hangings, praying that a specific duty may be laid on each piece of paper, and each piece of border, in lieu of the present ad valorem duty, and the memorial was read.

Mr. NOBLE presented the petition of William Hill, and others, citizens of Knox county, in the State of Indiana, praying compensation for property destroyed by the troops in the service of the United States; and the petition was read, and referred to the Committee of Claims.

#### SURVIVING REVOLUTIONARY SOLDIERS.

The Senate resumed consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army."

On motion by Mr. LACOCK to strike out of the amendment agreed to, as in Committee of the Whole, sec. 1, line 12, after "thereof," "or for the term of two years," it was determined in the affirmative—yeas 18, nays 13, as follows:

YEAS—Messrs. Barbour, Campbell, Dickerson, Eppes, Fromentin, King, Lacock, Leake, Macon, Morrow, Roberts, Sanford, Smith, Stokes, Taylor, Tichenor, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Burrill, Crittenden, Goldsborough, Horsey, Hunter, Morrill, Noble, Otis, Ruggles, Storer, Tait, Talbot, and Van Dyke.

On motion by Mr. CAMPBELL, to insert in lieu of the words stricken out, the following: "or during the whole term for which they were engaged, unless they were discharged, or left the service through some derangement of the Army, or, in consequence of their disability, resigned their commissions, or were in captivity or on parole until the close of the Revolutionary war;" it was determined in the negative—yeas 10, nays 21, as follows:

YEAS—Messrs. Barbour, Campbell, Dickerson, Eppes, Leake, Macon, Otis, Smith, Stokes, and Williams of Mississippi.

NAYS—Messrs. Burrill, Crittenden, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, King, Lacock,

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Morri, Morrow, Noble, Roberts, Ruggles, Storer, Tait, Talbot, Taylor, Tichenor, Van Dyke, and Williams of Tennessee.

On motion by Mr. TALBOT, to insert, in lieu of the words stricken out, the following: "or for the term of nine months, or longer, at any period of the war," it was determined in the affirmative—yeas 16, nays 15, as follows:

**YEAS**—Messrs. Barbour, Burrill, Crittenden, Eppes, Fromentin, Goldsborough, Horsey, Hunter, Leake, Macon, Morril, Otis, Smith, Stokes, Storer, and Talbot.

**NAYS**—Messrs. Campbell, Dickerson, Gaillard, King, Lacock, Morrow, Noble, Roberts, Ruggles, Tait, Taylor, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

The bill having been further amended—

On motion by Mr. CAMPBELL, that it be recommended to the Committee on Military Affairs, "with instructions to conform the rules and regulations to be observed in substantiating a claim to a pension, and granting the same, under this act, as far as circumstances will admit, to those which are prescribed for obtaining pensions under the act of Congress, of 10th April, 1806;" it was determined in the negative—yeas 8, nays 24, as follows:

**YEAS**—Messrs. Barbour, Campbell, Dickerson, Lacock, Macon, Morrow, Roberts, and Smith.

**NAYS**—Messrs. Burrill, Crittenden, Daggett, Eppes, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, King, Leake, Morril, Noble, Otis, Ruggles, Stokes, Storer, Tait, Talbot, Taylor, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

The Senate adjourned.

THURSDAY, February 26.

HENRY JOHNSON, appointed a Senator by the Legislature of the State of Louisiana, to supply the vacancy occasioned by the death of the late William Charles Cole Claiborne, produced his credentials, was qualified, and he took his seat in the Senate.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of William Hill, and others, inhabitants of the city of New York, and town of Salem, made a report accompanied by the following resolution:

*Resolved*, That the prayer of the petitioners ought not to be granted.

The report and resolution were read.

On motion by Mr. NOBLE, the Committee on Pensions, to whom was referred the petition of David Tate, of Tennessee, were discharged from the further consideration thereof.

The Senate resumed the consideration of the report of the Committee on Naval Affairs, to whom was referred the memorial of certain officers of the Navy, and also the memorial of certain officers of the Marine Corps, attached to the Mediterranean squadron; and, on motion by Mr. BARBOUR, the further consideration thereof was postponed to, and made the order of the day for, next Monday week.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom

was referred the petition of Elijah Rice; and in concurrence therewith, the petitioner had leave to withdraw his petition.

The bill to adjust claims to lots in the town of Vincennes, and for the sale of land appropriated as a common, for the use of the inhabitants of the said town, was read the second time.

The bill authorizing the subscription for the eleventh volume of State Papers, was read the second time.

The bill, entitled "An act for altering the time for holding the district court for the district of Virginia," was read the second time, and referred to the Committee on the Judiciary.

The bill, entitled "An act making appropriations for the support of the Navy of the United States, for the year 1818," was read the second time, and referred to the Committee on Naval Affairs.

The bill to increase the salaries of the judges of the circuit court, for the District of Columbia, was read a third time, and passed.

#### SURVIVING REVOLUTIONARY SOLDIERS.

The Senate resumed the consideration of the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army."

On motion by Mr. LACOCK, to add to the proviso as amended to the first section of the bill, line twenty-third, after "laws," the following, "of the United States, or of any individual State," it was determined in the affirmative—yeas 17, nays 16, as follows:

**YEAS**—Messrs. Barbour, Dickerson, Eppes, Lacock, Leake, Macon, Morril, Morrow, Roberts, Ruggles, Smith, Storer, Tait, Taylor, Tichenor, Williams of Tennessee, and Wilson.

**NAYS**—Messrs. Burrill, Campbell, Crittenden, Daggett, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Otis, Stokes, Talbot, Van Dyke, and Williams of Massachusetts.

On motion by Mr. GOLDSBOROUGH, to strike out the proviso to the first section of the bill, amended as follows:

"*Provided*, No person shall be entitled to the provisions of this act, until he shall have relinquished his claim to every pension heretofore allowed him by the laws of the United States, or of any individual State."

It was determined in the negative—yeas 10, nays 21, as follows:

**YEAS**—Messrs. Burrill, Fromentin, Goldsborough, Hunter, Johnson, Morril, Otis, Tichenor, Van Dyke, and Williams of Mississippi.

**NAYS**—Messrs. Barbour, Crittenden, Daggett, Dickerson, Eppes, Gaillard, Horsey, Lacock, Leake, Macon, Morrow, Roberts, Smith, Stokes, Storer, Tait, Talbot, Taylor, Williams of Tennessee, and Wilson.

The bill having been further amended, on the question, "Shall the amendments be engrossed, and the bill be read a third time, as amended?" it was determined in the affirmative—yeas 23, nays 8, as follows:

**YEAS**—Messrs. Burrill, Crittenden, Daggett, Eppes, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Morril, Otis, Ruggles, Stokes,

Storer, Tait, Talbot, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

**NAVS**—Messrs. Barbour, Dickerson, Lacock, Macon, Morrow, Roberts, Smith, and Taylor.

THE PRESIDENT communicated the memorial of John Phillips, at present a resident of the city of New York, an American Revolutionary soldier, stating that he was put on the pension list of the United States, to commence on the 10th day of July, 1811, and praying a pension from the conclusion of the Revolutionary war, up to that time, for reasons stated in the memorial; which was read, and referred to the Committee on Pensions.

After the consideration of Executive business, the Senate adjourned to 11 o'clock, to-morrow morning; to which time the several orders of the day were postponed.

#### FRIDAY, February 27.

Mr. BARBOUR, from the committee to whom was referred the bill in addition to an act, entitled "An act to promote the progress of the useful arts," reported the same with amendments which were read.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of William Hill, and others; and the further consideration thereof was postponed until Tuesday next.

The Senate resumed the consideration of the bill, entitled "An act for the relief of Israel Smith;" and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the bill respecting the transportation of persons of color, for sale, or to be held to labor; and the consideration thereof was further postponed to, and made the order of the day for, Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the compensation of certain judges of the courts of the United States; and the further consideration thereof was postponed until next Monday week.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize the establishment of Naval Depots and dock-yards; and, after debate, the further consideration thereof was postponed until Wednesday next.

Mr. BARBOUR, from the committee to whom was referred the bill to promote the progress of useful arts, and to repeal the acts heretofore made for that purpose, reported the same with amendments, which were read.

The amendments to the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," having been reported by the committee, correctly engrossed, the bill was read a third time as amended, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for delivering up persons held to labor or service in any of the States or Territo-

ries, who shall escape into any other State or Territory," together with the amendments reported thereto, by the Committee on the Judiciary; and the amendments having been agreed to, the further consideration thereof was postponed to, and made the order of the day for, Wednesday next.

#### MONDAY, March 2.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of David Baily, made a report, accompanied by the following resolution:

*Resolved*, That the prayer of the petitioner ought not to be granted.

The report and resolution were read.

Mr. ROBERTS, from the same committee, to whom was referred the petition of Martin Dubbs, also made a report accompanied by the following resolution:

*Resolved*, That the prayer of the petitioner ought not to be granted.

The report and resolution were read.

Mr. TICHENOR presented the petition of Daniel Pettibone, of Philadelphia, praying the renewal of his patent right for certain improvements in preparing and welding cast steel. He also presented another petition of the said Daniel Pettibone in behalf of himself, Ezekiel Chapman, and Josiah Nicholls, on the same subject; and the petitions were read, and respectively referred to the committee to whom was referred, on the 11th of last month, the bill to promote the progress of useful arts, and to repeal the acts heretofore made for that purpose.

Mr. ROBERTS presented the memorial of William Jones and others, citizens of Philadelphia, praying the adoption of measures to obtain the liberation of Richard W. Meade, an American citizen, illegally confined by the Government of Spain; and the memorial was read, and referred to the Committee on Foreign Relations.

The bill, entitled "An act for the relief of Israel Smith," was read a third time, and passed.

Agreeably to the special order of the day, the Senate resumed as in Committee of the Whole, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States; and, on motion by Mr. WILLIAMS, of Tennessee, the further consideration thereof was postponed to, and made the order of the day for, Wednesday next.

Mr. JOHNSON presented the memorial of the Mayor, Aldermen, and inhabitants of the city of New Orleans, praying that no law may pass subjecting to sale the commons of the said city, which have always been reserved for the use of the public; and the memorial was read, and referred to the Committee on Public Lands.

Mr. TALBOT presented the memorial of the General Assembly of Kentucky, on the subject of the boundary line between that State, and the

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State of Tennessee; and the memorial was read, and referred to the Committee on the Judiciary.

Mr. JOHNSON presented the petition of Anthony Gale, a major in the Marine Corps, praying compensation for services performed as a military agent, as stated in the petition; which was read, and referred to the Committee of Claims.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of Representatives of the United States:*

The Commissioners of the two Governments, under the fourth article of the Treaty of Ghent, having come to a decision upon the questions submitted to them, I lay before Congress copies of that decision, together with copies of the declaration signed and reported by the Commissioners of this Government.

JAMES MONROE.

WASHINGTON, February 25, 1818.

The Message and accompanying documents were read.

### FUGITIVE SLAVES.

Agreeably to the special order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill respecting the transportation of persons of color for sale, or to be held to labor, and the bill having been amended, the PRESIDENT reported it to the House accordingly; and, on the question to agree to the amendment made, as in Committee of the Whole, to strike out the 6th section of the bill, amended as follows:

"SEC. 6. *And be it further enacted*, That no person shall transport or convey by land, from one State to another, or from one State or Territory to another, any negroes, mulattoes, or persons of color, for the purpose of sale, without first recording the name, age, sex, color and stature of every such negro, mulatto, or person of color, in the office of the court of the county where such negro, mulatto, or person of color last resided, together with his own name and place of residence. And any person who shall attempt, or be engaged in the transportation or conveyance by land of any negro, mulatto, or person of color, as aforesaid, without first making the record as aforesaid, a copy of which, under seal and duly attested by the clerk of the court in which such record is made, shall be the only evidence, shall forfeit and pay one thousand dollars for each and every negro, mulatto, or person of color thus attempted to be transported or conveyed by land, one moiety thereof to the use of the United States, the other to any person or persons who shall sue for, and prosecute the same to effect, in any court of the United States having jurisdiction thereof."

It was determined in the affirmative—yeas 23, nays 6, as follows:

YEAS—Messrs. Barbour, Crittenden, Eppes, Fromentin, Gaillard, Hunter, Johnson, King, Leake, Maccon, Morrill, Otis, Sanford, Smith, Stokes, Storer, Tait, Talbot, Taylor, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Burrill, Goldsborough, Horsey, Noble, Roberts, and Ruggles.

On motion by Mr. TALBOT, the further consideration of the bill was postponed until Friday.

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TUESDAY, March 3.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the bill, entitled "An act making appropriations for the support of the Navy of the United States, for the year 1818," reported the same without amendment.

Mr. DAGGETT communicated the instructions of the Legislature of the State of Connecticut, to the Senators and Representatives of that State in Congress, to use their efforts to procure to be established, within the limits of said State, a naval yard and depot, and the instructions were read, and laid on file.

Mr. TALBOT communicated a resolution of the Legislature of the State of Kentucky, requesting the Senators and Representatives of that State in Congress to use their exertions to procure the extinguishment of the Indian title to all lands in that Commonwealth: Whereupon,

Mr. TALBOT submitted the following motion for consideration:

*Resolved*, That a select committee be appointed to inquire into the expediency of adopting some measures proper for the speedy extinguishment of the Indian title to the lands lying within the limits of the State of Kentucky, and which is surrounded by the Tennessee, Ohio, and Mississippi rivers, and the Tennessee State line; and that such committee have leave to report by bill or otherwise.

Mr. TAYLOR, from the Committee on Public Lands, to whom the subject was referred, reported a bill for the relief of John Small, and the bill was read, and passed to the second reading.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act for altering the time for holding the district court for the district of Virginia," reported the same without amendment.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill allowing additional salary and clerk hire to the surveyor for the Illinois and Missouri Territories, and for other purposes; and the bill was read, and passed to the second reading.

Mr. WILLIAMS, of Mississippi, from the Committee on Public Lands, to whom the subject was referred, reported a bill respecting the surveying and sale of the public lands in the Alabama Territory; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of William Hill, and others, inhabitants of the city of New York, and the town of Salem; and in concurrence therewith, resolved that the prayer of the petitioners ought *not* to be granted.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of David Bailey; and in concurrence therewith, resolved that the prayer of the petitioner ought *not* to be allowed.

Mr. ROBERTS, from the Committee of Claims, to whom were referred the memorial of certain merchants of Portsmouth, in New Hampshire, and its vicinity; the memorial of merchants,

underwriters, and insurance companies of Philadelphia; the petition and memorial of merchants and underwriters of Baltimore; and the memorial and petition of merchants and underwriters, citizens of the United States, of Charleston, South Carolina, made a report accompanied by the following resolution:

*Resolved*, That the relief asked by the memorialists and petitioners ought *not* to be granted.

The report and resolution were read.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Martin Dubbs; and in concurrence therewith, resolved that the prayer of the petitioner ought *not* to be granted.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to reduce the staff of the Army; and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, regulating the pay and emoluments of brevet officers; and no amendment having been made thereto, the *PRESIDENT* reported it to the House; and the bill having been amended, it was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution directing the Judges of the Supreme Court to be furnished with Wail's State Papers, and no amendment having been made thereto, the *PRESIDENT* reported it to the House; and it was passed to a third reading.

#### WEDNESDAY, March 4.

The bill regulating the pay and emoluments of brevet officers, having been reported by the committee correctly engrossed, on motion by Mr. STORER, it was recommitted to the Committee on Military Affairs.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the petition of John Philips, made a report accompanied with a resolution, that the petitioner have leave to withdraw his petition. Report and resolution were read.

The resolution directing the Judges of the Supreme Court to be furnished with Wail's State Papers, was read a third time, and passed.

Mr. WILLIAMS, of Mississippi, communicated a resolution of the Legislature of the State of Mississippi, requesting the Senators and Representatives of that State, in Congress, to use their best endeavors with the proper authority to procure the extinguishment of Indian title, to as much of the lands within the limits of that State, as can be procured from the different nations owning the same; and the resolution was read.

The Senate resumed the consideration of the motion of the third instant, for appointing a select committee to inquire into the expediency of adopting some measures proper for the speedy extinguishment of the Indian title to lands lying within the limits of the State of Kentucky; and the same having been amended—

On motion by Mr. NOBLE, further to amend the

same, by inserting "and within the limits of the State of Indiana," the Senate being equally divided, the *PRESIDENT* determined the question in the affirmative; and the motion, as amended, was agreed to as follows:

*Resolved*, That a select committee be appointed to inquire into the expediency of adopting some measures proper for the speedy extinguishment of the Indian title to the land lying south of the Tennessee and east of the Mississippi rivers, and within the limits of the State of Indiana; and that such committee have leave to report by bill or otherwise.

Messrs. TALBOT, KING, MORROW, CAMPBELL, and MACON, were appointed the committee.

On motion by Mr. WILLIAMS, of Mississippi, the resolution of the Legislature of the State of Mississippi, this day communicated to the Senate, was referred to the same committee, to consider and report thereon.

Mr. CAMPBELL submitted the following motion for consideration:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of extending the provisions of the law prescribing the mode in which the public acts, records, and judicial proceedings in each State shall be authenticated so as to take effect in every other State, to the public acts, records, and judicial proceedings of the several Territories of the United States.

The Senate resumed the consideration of the report of the Committee of Claims, to whom were referred the memorial of certain merchants of Portsmouth, in New Hampshire, and its vicinity; the memorial of merchants, underwriters, and insurance companies, of Philadelphia; the petition and memorial of merchants and underwriters of Baltimore; and the memorial and petition of merchants and underwriters, citizens of the United States, of Charleston, South Carolina.

On motion by Mr. ROBERTS, the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The bill for the relief of John Small was read the second time.

The bill, allowing additional salary and clerk hire to the surveyor for the Illinois and Missouri Territories, and for other purposes, was read the second time.

The bill, respecting the surveying and sale of public lands in the Alabama Territory, was read the second time.

A message from the House of Representatives informed the Senate that the House have passed a resolution respecting an adjournment of the first session of the fifteenth Congress, in which they request the concurrence of the Senate.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States; together with the amendments reported thereto by a select committee; and, after debate, the Senate adjourned.

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THURSDAY, March 5.

Mr. SANFORD presented the memorial of Eli Hart, stating that he had, during the late war with Great Britain, loaned to John G. Camp, then Deputy Quartermaster General, sixteen thousand dollars, for part of which sum he was obliged to receive in payment Treasury notes at par, by the sale of which he sustained a great pecuniary loss, and praying relief; and the memorial was read, and referred to the Committee of Claims.

Mr. KING presented the petition of John G. Bogert, of the city of New York, praying to be refunded the purchase money of certain lots sold by the marshal of New York, to satisfy judgments obtained by the United States, against Edward Livingston, on the ground of the said lots being sold from an inaccurate map, representing property to belong to the said Livingston, which never existed; and the petition was read, and referred to the Committee of Claims.

The resolution respecting an adjournment of the first session of the fifteenth Congress, brought up yesterday for concurrence, was read three several times by unanimous consent, and concurred in; and Messrs. DAGGETT, GAILLARD, and TICHENOR, were appointed the committee on their part.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, reported a bill to defray the expenses of the militia, when marching to places of rendezvous; and the bill was read, and passed to the second reading.

On motion by Mr. RUGGLES, Rachael Dohrman, widow of Arnold Henry Dohrman, deceased, had leave to withdraw her petition, presented at the last session of Congress, with the accompanying documents, and the Secretary was directed to retain on file certified copies thereof.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution, proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States, together with the amendments reported thereto, by a select committee; and the amendments having been agreed to, the PRESIDENT reported the resolution to the House, amended accordingly; and the amendments being concurred in, on the question, Shall this resolution be engrossed, and read a third time? it was determined in the affirmative—yeas 18, nays 13, as follows:

YEAS—Messrs. Burrill, Campbell, Dickerson, Fromentin, Gaillard, Goldsborough, Hunter, Johnson, King, Lacock, Macon, Morrow, Smith, Stokes, Talbot, Tichenor, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Barbour, Daggett, Eppes, Horsey, Leake, Morrill, Otis, Roberts, Ruggles, Sanford, Storer, Tait, and Van Dyke.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for delivering up persons held to labor or service,

in any of the States or Territories, who shall escape into any other State or Territory."

After debate, on motion, the Senate adjourned.

FRIDAY, March 6.

Mr. GOLDSBOROUGH presented the memorial of the piano forte makers and organ builders of Philadelphia, New York, Boston, and Baltimore, praying an additional duty on the importation of such articles; and the memorial was read.

Mr. JOHNSON presented the petition of Samuel Koln, of Louisiana, praying the confirmation of his title to a tract of land therein described; and the petition was read, and referred to the Committee on Public Lands.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of John Davis, made a report, accompanied by a resolution, that the claim of the petitioner ought not to be allowed. The report and resolution were read.

On motion by Mr. WILLIAMS, of Tennessee, the Committee on Military Affairs, to whom was referred the petition of Thomas Robinson and others, a committee in behalf of the surviving officers of the Pennsylvania line of the Revolutionary Army, were discharged from the further consideration thereof.

On motion by Mr. WILLIAMS, of Tennessee, that the Committee on Military Affairs, to whom was referred the memorial of Charles Biddle and others, a committee on behalf of the surviving officers of the Revolutionary Army, be discharged from the further consideration, and that it be referred to the Committee of Claims, a division of the question was called for by Mr. ROBERTS, and it was taken on discharging the committee from the further consideration thereof, and determined in the affirmative—yeas 16, nays 9, as follows:

YEAS—Messrs. Crittenden, Eppes, Johnson, King, Lacock, Leake, Macon, Ruggles, Sanford, Storer, Tait, Talbot, Taylor, Williams of Mississippi, Williams of Tennessee, and Wilson.

NAYS—Messrs. Burrill, Dickerson, Fromentin, Horsey, Morrill, Roberts, Stokes, and Van Dyke.

So it was Ordered, That the Committee on Military Affairs be discharged from the further consideration of said memorial, and that it be referred to the Committee of Claims to consider and report thereon.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Thomas Wright, made a report, together with a resolution, that Thomas Wright have leave to withdraw his petition. The report and resolution were read.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of John Phillips; and in concurrence therewith, resolved that the petitioner have leave to withdraw his petition.

The Senate resumed the consideration of the motion of the 4th instant, for instructing the Committee on the Judiciary to inquire into the expediency of extending the provisions of the law prescribing the mode in which the public



acts, records, and judicial proceedings, in each State, shall be authenticated, so as to take effect in every other State, to the public acts, records, and judicial proceedings of the several Territories of the United States; and agreed thereto.

The bill to defray the expenses of the militia, when marching to places of rendezvous, was read the second time.

A message from the House of Representatives informed the Senate that the House have concurred in the amendments of the Senate to the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," with amendments, in which they request the concurrence of the Senate.

The PRESIDENT communicated a letter from the Secretary of the Treasury, accompanied with a statement of the emoluments of the officers employed in the collection of the customs for the year 1817; which were read.

Mr. ROBERTS presented the petition of Cata Bunnel, of Connecticut, whose son had enlisted during the late war, and was killed in the service of his country, praying the bounty in land to which the heirs of deceased soldiers are entitled; and the petition was read, and referred to the Committee of Claims.

On motion by Mr. CRITTENDEN, the Committee on the Judiciary, to whom were referred the petition of the Chamber of Commerce of the city of Philadelphia, and the memorial of William Lorman and others, of Baltimore, praying the establishment of a system of bankruptcy, were discharged from the further consideration thereof respectively.

#### FUGITIVE SLAVES.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory."

Mr. SMITH, of South Carolina, said, when this subject was first brought before the Senate, he had determined to take no part in the debate. But, as it had assumed such a complexion, both as it respects the constitutionality of the provisions of the bill itself and the subject-matter upon which it is founded, as well as the severity of the remarks used by gentlemen opposed to its passage, he considered it his duty to make some reply. The gentleman from Rhode Island (Mr. BURRILL) insists that the privilege of the writ of habeas corpus, secured by the ninth section of the first article of the Constitution, will be infringed by this bill, because a person of color taken under it cannot have the right to his freedom tried by the judge before whom the return of the writ of habeas corpus is made. Mr. S. said he pretended to no law knowledge beyond that of other gentlemen, yet he did most unequivocally deny the construction of the Constitution as given by that gentleman. The writ of habeas corpus was never intended to give a right of trial. It merely gives the right to the

person confined to demand an inquiry whether he is held in custody upon a ground warranted by law; and if the judge before whom he is brought finds he is detained by legal authority and upon legal grounds, he cannot discharge him, but is obliged to remand him. If the authority by which he is held appears to be legal, it is perfectly immaterial whether the cause is a just one or not. And when a fugitive from labor has been taken under this law, the cause of his detention will be fully set forth in the certificate by the judge before whom he is to be taken, whose duty it is specially made to do so. Then can it be pretended, after you pass a law prescribing expressly under what proofs a fugitive shall be taken, and that the fugitive shall be specially described by the judge in the order he is to give for his removal, and that the proofs have been satisfactorily made before him the person therein described is a fugitive slave, and belongs to the person who holds him in custody, that another judge has a right to question all this, and take upon himself alone to try his right to freedom, and discharge him? It is impossible. The writ of habeas corpus was never intended to give any such right.

This would give a judge the sole power of deciding the right of property the master claims in his slave, instead of trying that right by a jury, as prescribed by the Constitution. He would be judge of matters of law and matters of fact; clothed with all the powers of a jury as well as the powers of a court. Such a principle is unknown in your system of jurisprudence. Your Constitution has forbid it. It preserves the right of trial by jury in all cases where the value in controversy exceeds twenty dollars. The gentleman has said, if this bill should pass it will enable the Southern planters to take and carry away, not only their own fugitive slaves, but any other person of color, whether he be a free man or a slave. It would enable them to carry off a free white man, and even one of the members of this Senate. Sir, the gentleman from Rhode Island may consider himself as perfectly safe from any such hazard; for, however much we may respect our Northern friends as gentlemen, as lawyers, and as statesmen, we should have no sort of use for them in our cotton fields. Nor should we admire their political instructions to our slaves if they should carry with them their present impressions.

The honorable gentleman has spoken of the practice of the Southern people in kidnapping their free negroes, and calls them man stealers. And the gentleman from Pennsylvania (Mr. ROBERTS) has called them *kidnappers*, *men stealers*, and *soul drivers*; and he asks, in a very emphatic manner, who drew this bill, and upon what authority? Or if it was brought in upon the application of any of the abolition societies? And then he answers these questions himself, and says it was not, but that it had been drawn by a cunning lawyer, and was supported by lawyers. Sir, this language does not comport with the moderation which that gentleman expressed a desire

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should prevail in this discussion when he addressed the Senate on the subject early in this debate. Is this the language we are to meet when we are suing for our Constitutional rights? The Constitution of the United States has guaranteed to the master a right to pursue his fugitive slave, and has enjoined to the State to which he shall fly to deliver him up. It has not left it optional with the State to which he flies, but has made it imperative that he *shall* be delivered up. And has it come to this, that we must wait for the permission of the abolition societies before a law can be offered to secure the recovery of just rights? This was not more novel than strange.

Mr. S. said, it had been a practice in monarchical governments to discredit lawyers, where they had often been foremost in checking a high-handed tyranny; but he had not expected to hear it practised in the Senate of the United States. The lawyers of this country had nothing to fear upon an investigation of their general character. They had been wanting in no public duty. During the Revolutionary war, as well as the late war, many of them had displayed as much gallantry in the field, and as much ability in the councils, as any men in the nation, whilst these abolition societies were in ease and security at home, following their domestic pursuits, and leaving it to others to fight their battles. Mr. S. said, he was sorry to make these remarks, but they were just, and were forced from him. He admired the moderation and virtue of these people; he thought them worthy of imitation in many respects, but he did not admire their constant efforts to alienate the affections of the people of color from their masters, with whom they lived happy, and by whom they were better provided for than the peasantry of any other country upon earth; or, indeed, in some portions of this country, if the facts given by their writers be correct. Mr. Melish, of Philadelphia, in an essay published only a few days ago, states, that there are in the city and county of Philadelphia at least fifteen thousand people, all able and willing to work, who are either idle or occupied in unproductive labor, and says, that melancholy picture pervades the country throughout. This place is the very centre of emancipation; and if unable to furnish employment for their own population, is there any reason why they should add to this picture of growing distress, by an accumulation of free negroes?

Notwithstanding all that has been said by our northern brethren against us for keeping slaves, they employ their free blacks in all their drudgery, and obtain their labor on better terms than masters do. And although it does not apply to that body generally, yet it is a fact, susceptible of proof, that some who profess to promote this principle of abolition, have seduced the slaves from the neighboring States under promises to secure their emancipation, instead of which they put them to work, and treat them with so much more severity and injustice than their masters, that the slaves either made it known where they were, or run away from these new tyrants and went

back to their former state of slavery, as a better and more desirable condition.

With all this boast about freedom and emancipation, there are only four States that have no slaves. Even the magnificent State of Pennsylvania is a slaveholding State; so is the State of Rhode Island. Those which are non-slaveholding States, with the exception of Ohio, have not long since got rid of them. Rhode Island, New York, and Pennsylvania, previous to taking steps to abolish slavery, furnished the Southern markets with considerable numbers. And the very moment the African trade was opened in South Carolina, in the year 1803, these very States furnished their full proportion of shipping to carry it on. Even our friends in Boston, and other New England States, were willing to help with their shipping; besides, it furnished a market for their surplus rum. So we perceive, whenever interest is concerned, and a little profit is to be made, all this delicacy about slavery is laid aside.

Whilst it was their interest to hold slaves, so long they kept them. Whenever the interest coupled with it ceased, slavery ceased, but not before. After the war, trade revived, especially in the Eastern States; it was found that a negro capital must give way to a commercial capital; which was infinitely more profitable. So it is now with banking capital. Even in the States where slavery exists to the greatest extent; we find many selling off their negroes and vesting the proceeds in bank stock; and especially those who live in the towns and cities. This capital, being so much more profitable than the other, it is constantly increasing. And there are no persons more apt to remonstrate against that crying sin slavery, than such as have just sold off their stock of negroes, and vested the price in bank stock. Slavery, then, becomes very odious. They wish to see it abolished—they do not like to see this traffic in human flesh. But it is because they have got its precious price in a stock that will yield them a three or four-fold profit; not till then can they see its enormity. It is a very convenient thing to be receiving a large profit upon his stock, which is going on under the fostering hand of bank directors, whilst the owner is asleep or taking his pleasure. We have lately seen it published, that some banks have divided as much as thirty per cent. upon their capital, whilst the most successful planter will not receive more than ten, and, very many years, not half that amount. This banking system is what will form the ground-work for overthrowing this species of property, by gradually diminishing the number of its holders, and increasing the bank stock influence. Look how slavery has diminished in the public estimation, as the other system has grown. The States which have taken measures to abolish slavery, have become perfectly bank mad. New York has abolished slavery after ten years, and she is convulsed with banks, and not yet satisfied. There was a late attempt to establish one with a capital of six millions, but it was checked by the Executive. The State of Pennsylvania, already abounding in banks, incorporated forty-seven by

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one law—they climbed over the Executive veto to do so; two-thirds of the Senate, and about three-fourths of the House of Representatives supporting it. Many of these banks, without a farthing of capital, drawing a large income from the hard earnings of the honest and unwary part of the community, and absolutely refusing to redeem their paper, without one compunction for the misery and ruin it brings with it. When these very frauds were practising to an enormous degree, without a murmur, except from those who were sinking under it, the feelings of that country were bleeding for the supposed distress of the slaves of the South.

The famous article in the Treaty of Ghent, by which we have guaranteed to England our co-operation in abolishing the African slave trade, is worth notice. Our Commissioners, friendly to banks and opposed to slavery, had no instructions to enter into any such stipulation. Great Britain had not long before abolished that trade; and our Government had done so forty years before, by an ordinance of the First Congress, in 1774, and which had been rendered more complete by a law of 1807. It was totally unconnected with the subject of negotiation. We were at war upon other grounds entirely. Not even a question of commerce had ever arisen between the two nations upon it; yet it found its way, an isolated article, into a Treaty of Peace!

The Colonizing Society is another step in this grand scheme. This society intends to send the free negroes, and other persons of color, into the wilds of Africa; by which they are to be torn from the land of their nativity, and everything to which they are attached by friendship and habit, and the advantages of civilized life, and left to sink again into all the miserable barbarity of their ancestors. But it is said it will pave the way to a general emancipation.

We do by no means suppose that any honorable member of Congress would think of such a thing as a general emancipation; because, independently of interfering with private rights, they know too well that such a measure could not take place without involving the whole of the United States in an awful situation. But, that a general emancipation is intended there can be no doubt, by the Eastern and Northern States, if they can find means to effect it. The abolition societies are avowedly for it; what else can the very name itself indicate? Although their numerous petitions, now before Congress, purport to extend no further than to prevent kidnapping, yet, look at the language of the petitions. If they had applied directly for emancipation, they could not speak plainer. Connected with these petitions, now in the possession and under the consideration of Congress, is the resolution of the gentleman from Rhode Island, (Mr. BURRILL,) to inquire "into the expediency of the United States taking measures, in concert with other nations, for the entire abolition of said trade." As this resolution had been once before the Senate, and had been referred by a majority to a committee to report with what nations, and under what regu-

lations we should connect ourselves to effect this project, Mr. S. said, it would not be out of the way to advert to it, and inquire what hopes we had of a fortunate result. With whom is this Government to connect itself in this desirable work? It would seem that it ought to be with nations whose general policy is favorable to emancipation, and whose subjects enjoy the blessings of civil liberty at home, before we could expect much beneficial aid from their co-operation. We are not to hope for this from Russia, Prussia, and Austria, whose subjects are borne down by the iron hand of tyranny. Their peasantry are bought and sold at home like slaves, and are suffered to be sent to this country and sold in our markets. Nor is it to be hoped for from England, if her policy should dictate to her a different course. She is now riding foremost in this career, because it promises to extend and promote her commercial interest, whilst her millions of paupers at home are dying in garrets, or falling by the way side, and if they assemble, to raise their cry to their rulers for bread, the riot act is read, and then the military is ordered to fire on them. Three of these nations, assisted by the ships of the other, have spread their sceptre over the destinies of Europe, and formed an holy league against its dawning liberties. These are the nations with whom you are to associate to abolish slavery. It is not to be wondered at, under all this influence, with a total want of knowledge of the comfortable condition of the slaves, that our northern neighbors should feel unfavorable to slavery. But most of the northern gentlemen, when they remove to the southward, and when they can see and judge for themselves, have no hesitation in buying slaves. General Greene, to whom the State of Georgia gave a plantation that cost five thousand guineas, and South Carolina ten thousand pounds sterling, for his services during the Revolutionary war, had no hesitation in purchasing a large gang of negroes to cultivate this plantation, notwithstanding he had been raised to the northward, and had been brought up a quaker.

But, there is another perpetual source of misrepresentation, which serves to place it in an odious light to strangers: it is the number of catch-penny prints and pamphlets that are published by persons who know no more of the condition of the slaves than they do of the man in the moon. Go to a bookstore, and you meet prints hung up in some conspicuous place, in large capital letters, "Portraiture of Domestic Slavery," published in Philadelphia; or the "Horrors of Slavery," published in Cambridge, and sold in Boston. These pamphlets contain all the extraordinary cases collected on the high seas, in the West Indies, or United States, together with such inflammatory speeches of travellers, who have no other means of giving to their writings interest, than by dealing in the marvellous; or of fanatic preachers, or speeches in the British Parliament, calculated to inflame without being able to instruct, and suited more to promote a particular policy than to promote the rights of humanity.

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At the time the memorials of the several abolition societies were presented to the Senate, some unknown hand had laid on the desk of each Senator a pamphlet, entitled "The Horrors of Slavery, in two parts, by John Kenrick; sold in Boston, price twenty cents." This twenty-cent pamphlet gives many horrible pictures of slavery; and no doubt the author knew this great moving cause, the *twenty cents*, would multiply in proportion to the extravagance of his descriptions. This twenty-cent pamphleteer, amongst his other good offices, has pointed out Louisiana as a very fit place to colonize all the slaves, after they are emancipated, (which he seems to think a certain event,) and takes care not to lose sight of the fine market it would afford for their manufactures. Mr. S. said, if an emancipation should take place, he would rather see them settled in the Northern States, among their friends, where they could be better superintended. The people of the Southern States would by no means thank Mr. Kenrick for such neighbors; and more especially if they are to be educated like the free negroes in the Northern and Eastern States, if the account given by the gentleman from Connecticut (Mr. DAGGERT) be correct, of which we have no doubt. He says they have fifty white inhabitants for one black, and that there are three public crimes committed by the blacks where there is one committed by a white person. This will make the proportion one hundred and fifty to one. And, if we are to judge from the registers of their penitentiaries, we should believe they have their full share of crimes, even amongst their whites.

This same pamphleteer, after giving us the pious effusions of English travellers, Northern pamphleteers, American map-makers, and British members of Parliament, gives us a pathetic extract from the speech of the late Mr. Pitt, in the British House of Commons, upon the question for abolishing the African slave trade, which, sir, is worth reading. It is in the following words: "The present was not a mere question of feeling. The argument which ought, in his opinion, to determine the committee, was, that the slave trade was unjust. It was therefore such a trade as it was impossible for him to support, unless it could first be proved to him that there were no laws of morality binding on nations, and that it was not the duty of a Legislature to restrain its subjects from invading the happiness of other countries, and from violating the fundamental principles of justice." This, sir, was the language of Mr. Pitt, the celebrated orator and accomplished statesman, who decries the traffic, after his country has filled her colonial possessions with slaves, whilst there was yet an inch of ground for them to cultivate, and to check the growth of the colonies of other rival nations, and under whose policy every nation in Europe has been drenched in blood for twenty years; and who, at the very moment he was remonstrating so strongly against invading the happiness of other countries, and violating the fundamental principles of justice, was planning and carrying on a most cruel and desolating war in the distant regions of Asia—

a war, not of defence, but a war purely for conquest—a war carried on by corrupting and exciting rival chiefs, and then holding out terms of friendship to the conqueror, who is made the tool of further treachery, and who falls, in his turn, a victim to the same perfidy; until England has reduced under her dominions more than seventy millions of people, who pay them tribute, and have no liberty left, but that of worshipping Juggernaut! At no time since the days of civilization has the happiness of other nations been more disturbed or injustice more practised towards them than during the administration of Mr. Pitt. When the sources of our admonitions shall become more pure, we shall no doubt allow them more weight.

But, we are told by these pamphlet writers, that slavery is "a violation of the Divine laws." And the gentleman from New York, (Mr. KING,) in discussing this subject, has told us, "it is contrary to our holy religion." And the gentleman from New Hampshire (Mr. MORRIL) has told us, that in New England, they believe "all men are born equally free and independent;" that "every human affection recoils at their bondage." The gentleman has said, "the Bible is our moral guide;" and says it was for dealing "in gold and silver and precious stones and pearls and chariots and slaves and souls of men, that produced the downfall of the great Babylon." And he seems to think, that, unless we abolish slavery, we shall provoke the wrath of Heaven, and that we shall go next. The gentleman has forgot one of the great offences of that people: it was for taking of usury. The same Bible which he has adopted for his moral guide says: "Take thou no usury of him, or increase; but fear thy God." This part of the Bible must have become obsolete in New England since the introduction of banks. It must now be pleasing in the sight of Heaven to see a dividend as large as twenty per cent. to each bank share. There are as many chariots, as many pearls, as much gold and silver, perhaps, in New England, as there was in Babylon, at the time of its fall; yet they are in no danger till the vengeance of Heaven has fallen on the slaveholding States first, the gentleman seems to think.

Upon this great question, sir, notwithstanding the opinion of honorable gentlemen to the contrary, there have been some very respectable opinions as to the Divine authority in favor of slavery. We all know that Ham sinned against his God and against his father, for which Noah the inspired patriarch cursed Canaan the son of Ham, and said, "A servant of servants shall he be unto his brethren." Newton, who was perhaps as great a divine as any in New England, and as profound a scholar, in a book of great celebrity called his *Prophecies*, in which he endeavors to prove the divinity of the Bible by the many prophecies that are now fulfilling, says that this very African race are the descendants of Canaan, and have been the slaves of many nations, and are still expiating in bondage the curse upon themselves and their progenitors. But it may be said that this is only an *opinion* of Mr. Newton, and that we

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can see no reason in it. Mr. S. said, if the gentleman was unwilling to believe Mr. Newton, he would surely believe Moses and the prophets. And if the Senate would indulge him, he would show from the Bible itself that slavery was permitted by Divine authority; and for that purpose he would open to the xxvth chapter of Leviticus, and read as follows: "And the Lord spake unto Moses in Mount Sinai, saying, Speak unto the children of Israel, and say unto them," &c. "39. And if thy brother that dwelleth by thee be waxen poor, and be sold unto thee; thou shalt not compel him to serve as a bond-servant: 40. But as an hired servant, and as a sojourner, he shall be with thee, and shall serve thee unto the year of jubilee." "44. Both thy bond-men and thy bond-maids, which thou shalt have, shall be of the heathen that are round about you: and of them shall ye buy bond-men and bond-maids. 45. Moreover, of the children of the strangers that do sojourn among you, of them shall ye buy, and of their families that are with you, which they begat in your land: and they shall be your possession: 46. And ye shall take them as an inheritance for your children after you, to inherit them for a possession; they shall be your bond-men for ever," &c.

This, Mr. President, is the word of God, as given to us in the Holy Bible, delivered by the Lord himself to his chosen servant Moses. It might be hoped this would satisfy the scruples of all who believe in the divinity of the Bible; as the honorable gentleman from New Hampshire certainly does, as he has referred to that sacred volume for his creed. It might satisfy the scruples of Mr. Kenrick, and the divines who appear so shocked at seeing a father dispose of his slaves to his children by his last will and testament, as they will perceive the scriptures direct them to go as an inheritance. The honorable gentleman says, he speaks not only his own, but the universal sentiments of all those he represents. If he and his friends of New Hampshire have not turned aside after strange gods, it is hoped the authority I have quoted might satisfy them.

The Senate adjourned to Monday morning.

MONDAY, March 9.

Mr. SANFORD, from the Committee of Commerce and Manufactures, to whom was referred the memorial of Thomas Tenant and George Stiles, of the city of Baltimore, merchants, made a report thereon; which was read, and the memorial, together with the report thereon, were ordered to be printed for the use of the Senate.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was recommended the bill regulating the pay and emoluments of brevet officers, reported the same without amendment.

Mr. DAGGETT, from the joint committee, to whom was referred the resolution of the House of Representatives of the 3d of March instant, on the subject of the adjournment of Congress, reported a resolution fixing the time for the ad-

journment of the first session of the fifteenth Congress.

The resolution was read, and passed to the second reading.

Mr. WILLIAMS, of Mississippi, presented the petition of Benjamin S. Smoot and others, praying to be confirmed in their title to a tract of land including the town of St. Stephens, in the Alabama Territory; and the petition was read, and referred to the Committee on Public Lands.

Mr. JOHNSON presented the petition of Henrietta Ross, widow and relict of the deceased Colonel George T. Ross, praying relief in consideration of the services of her late husband; and the petition was read, and referred to the Committee on Pensions.

The PRESIDENT communicated the petition of Asael Clark, a citizen of New York, praying indemnity for a judgment obtained against him for a certain sum of money received by him as judge advocate of a general court martial organized for the trial of militia delinquents in the year 1812, by the then Governor of the State of New York, by order of General Dearborn, the money so received having been paid over to Samuel Edmonds, paymaster general; and the petition was read, and referred to the Committee of Claims.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of William Gamble, made a report, accompanied with a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. ROBERTS, from the same committee, to whom the subject was referred, reported a bill for the relief of Cata Bunnell; and the bill was read, and passed to the second reading.

On motion, by Mr. ROBERTS, the Committee on Public Lands were instructed to inquire into the expediency of providing, by law, for the authentication of patents for land in such manner as that the signature of the President of the United States may not be necessary.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making appropriations for the support of the Navy of the United States for the year 1818;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it was ordered to a third reading. The said bill was read a third time by unanimous consent, and passed.

Mr. SMITH presented the petition of William Marshall, of the city of Charleston, praying to be relieved from the payment of certain judgments obtained against him, as collector for moneys not collected; and the petition was read, and referred to the Committee of Claims.

The Senate proceeded to consider the amendments of the House of Representatives to their amendments to the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army;" and the 1st, 2d, 4th, 5th, and 6th amendments having been agreed to; and, on the question to concur in the 3d amendment as follows—"lines 2d and 3d, strike out the

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words "or of any individual State;" it was determined in the affirmative—years 22, days 10, as follows:

**YEAS**—Messrs. Burrill, Campbell, Crittenden, Daggett, Eppes, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Morrill, Otis, Sanford, Stokes, Tait, Talbot, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

**NAYS**—Messrs. Dickerson, Lacock, Leake, Macon, Morrow, Noble, Roberts, Ruggles, Smith, and Storer.

So it was *Resolved*, That the Senate concur in the amendments of the House of Representatives to their amendments to the said bill.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the memorial of John Hall, late a Major in the Marine Corps of the United States, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read.

Agreeably to the order of the day, the Senate resumed the consideration of the report of the Committee on Naval Affairs, to whom were referred the memorial of certain commissioned officers of the Navy, under the rank of commanders, and also the memorial of certain officers of the Marine Corps attached to the Mediterranean squadron; and, on motion, by Mr. TAIT, the consideration thereof was further postponed to, and made the order of the day for, Monday next.

Agreeably to the order of the day, the Senate resumed the consideration of the report of the Committee of Claims to whom were referred sundry memorials and petitions for indemnification for French spoliation; and, on motion, by Mr. BURRILL, the consideration thereof was further postponed to, and made the order of the day for, Monday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Weaver Bennet; and in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of John Davis; and, in concurrence therewith, resolved that the claim of the petitioner ought not to be allowed.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Thomas Wright; and, in concurrence therewith, the said Thomas Wright had leave to withdraw his petition.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to reduce the staff of the Army; and the bill having been amended, the further consideration thereof was postponed until to-morrow.

The PRESIDENT communicated a report of the Secretary of the Treasury, made in conformity with the provisions of the act of Congress of the 3d of March, 1817, entitled "An act to incorporate the subscribers to certain banks in the District of Columbia, and to prevent the circulation of the notes of incorporated associations within the said District," in relation to the situation of the said

banks respectively, on the 1st day of January, 1818; which was read.

The engrossed resolution, proposing an amendment to the Constitution of the United States, as it respects the election of Representatives in Congress, and the appointment of Electors of President and Vice President of the United States, was read a third time; and, on the question, "Shall this resolution pass?" it was determined in the negative—years 20, days 13; two-thirds of the Senators present not agreeing thereto—as follows:

**YEAS**—Messrs. Burrill, Campbell, Crittenden, Dickerson, Fromentin, Gaillard, Goldsborough, Hunter, Johnson, King, Lacock, Macon, Morrow, Noble, Smith, Stokes, Talbot, Tichenor, Williams of Massachusetts, and Williams of Tennessee.

**NAYS**—Messrs. Daggett, Eppes, Horsey, Leake, Morrill, Otis, Roberts, Ruggles, Sanford, Storer, Tait, Taylor, and Van Dyke.

The PRESIDENT also communicated the memorial of the Legislature of the Alabama Territory, remonstrating against the prayer of the memorial of the Mississippi Convention, praying an extension of the limits of that State; and the memorial was read, and referred to the committee to whom was referred on the 16th December, 1817, the said memorial of the Mississippi Convention, to consider and report thereon, by bill or otherwise.

A message from the House of Representatives informed the Senate that the House have passed a bill entitled "An act altering the time for holding a session of the district court in the District of Maine;" also a bill, entitled "An act to alter the time of holding the circuit court, in the southern district of New York, and for other purposes;" and also a resolution fixing the time for the adjournment of the first session of the fifteenth Congress, in which bills and resolution they request the concurrence of the Senate.

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The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory."

Mr. MORRILL addressed the Chair as follows:

Mr. President, I think it correct and proper for any gentleman who is not in favor of the bill, to present his objections on the second reading, that its friends may have a fair opportunity to amend it. Under these impressions, I make a motion for a recommitment, that any imperfections may be properly laid before the Senate.

I am not insensible, sir, of the peculiar disadvantages under which I address you on the bill upon your table. I am extremely depressed with an apprehension of unfavorable impressions, which may have been erroneously made, on the minds of honorable gentlemen from the South, in consequence of remarks which fell from me on another occasion, upon a subject not altogether foreign from this. Sentiments which originated in the purest motives, and, in my opinion, in perfect coincidence with the spirit of our Constitution;



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I may, therefore, be allowed this opportunity peremptorily to disclaim any hostility to the provisions of the Constitution respecting slavery; or to any law founded upon the principles and in accordance with such provisions. Sir, I wish it to be distinctly understood, that I have no disposition to deprive slaveholders of that species of property; to aid their slaves in escaping; to detain them when they have escaped; or to impede their exertions in recovering them in a Constitutional and legal manner, without endangering the rights, or infringing the privileges of free citizens.

I very readily acknowledge, that there are provisions in the Constitution which recognise slavery—which I consider a kind of compact by compromise, into which the States mutually entered when they adopted that instrument, about which I have neither a right nor disposition to complain. I hold it, sir, as sacredly binding as any part of this palladium of our rights, and to prevent its due operation is not the wish of my heart; at the same time, I am far from being the advocate or friend of slavery. If I were to be governed by my own personal feelings, independent of any other control, or were I to be guided by my views of the principles of the common law, I should assuredly say, no slavery. But, sir, in my present situation, I deem it my duty to divest myself of all prepossessions and partialities, and, as a legislator, to be directed by the express provisions of the Constitution—the glory of our country, and the admiration of the world.

In investigating this subject, I shall studiously endeavor to avoid any expression which may intentionally implicate the views of the honorable gentlemen, with whom it is my pride to act; and with equal solicitude to avoid such digression from the point, as again to discompose the feelings of the venerable gentleman from New York. But, sir, should I so far, inadvertently, diverge from the *lex parliamentaria*, as to introduce the debates of the other House, I assure you I will not complain if that honorable gentleman should call me to order.

Previous to my adverting to the provisions and details of this bill, it was my intention to make a few observations upon the law now in force upon this subject; the existence of which, in my view, renders the passing of this altogether unnecessary. But, as my remarks have been anticipated by the honorable gentleman from Rhode Island, (Mr. BURRILL,) I shall very concisely observe, that law provides "that when any person held to labor in any of the States or Territories, under the laws thereof, shall escape into any other State or Territory, the person to whom such labor or service may be due, his agent or attorney, is empowered to seize or arrest such fugitive from labor, and to take him or her before any judge of the circuit or district courts of the United States, residing or being within the State, or before any magistrate of a county, city, or town corporate, wherein such seizure or arrest shall be made; and upon proof, to the satisfaction of such judge or magistrate, either by oral testimony or affidavit, taken before and certified by

a magistrate of any such State or Territory, that the person arrested doth, under the laws of the State or Territory from which he or she fled, owe service or labor to the person claiming him or her, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, his agent or attorney, which shall be a sufficient warrant for removing the said fugitive from labor to the State or Territory from which he or she fled."

In this section of the law, sir, I conceive every provision is made for the speedy recovery of fugitive slaves, that gentlemen can rationally expect or reasonably desire. They have nothing more to do than seize the fugitive, and apply, by themselves or agent, to a judge or magistrate, and prove, to his satisfaction, by oral testimony or affidavit, that the person so seized has fled, and does owe labor or service to the claimant, and the judge or magistrate shall issue his certificate, which shall be sufficient for removing such fugitive to the place from which he or she absconded. This is a concise, plain, and easy course. But, sir, permit me now to examine the bill under our immediate consideration.

The provisions and details of this bill, in my humble opinion, are very deficient, imperfect, and improper. The first section provides "that when any person held to labor, &c., shall escape, &c., the person to whom such labor may be due, or his agent, may apply to any judge of the district or circuit court, &c., or to any judge, or two justices of a court of record, of the State or Territory from whence such fugitive shall have escaped; and upon proof to the satisfaction of such judge or magistrates that such fugitive is a slave, &c., and does owe labor to the person claiming him, and shall become bound in a recognisance, &c., to perform certain acts, then, and in that case, it shall be the duty of such judge of the district or circuit court, or such judge or magistrates of the State or Territory from whence such fugitive shall have escaped, to award a certificate, stating the place of abode of such claimant, and setting forth the name, age, and sex of such fugitive. This certificate shall be verified by the signature of the judge or justice awarding the same, and by the certificate of the clerk, under the seal of his court, (if there be a seal,) that the person signing the certificate first mentioned is a judge or justice of the description required by this act." The second section provides "that on producing such certificate as aforesaid, to any judge of the circuit or district court, or judge or justice of a court of record in the State or Territory to which such fugitive shall have escaped, it shall be the duty of such judge or magistrate to grant a warrant, authorizing any marshal, sheriff, sergeant, constable, or public bailiff of the State or Territory last aforesaid, to apprehend such fugitive, and bring him before such judge or justice. And if it shall thereupon appear to the satisfaction of such judge or magistrate, by the oath of one or more credible witnesses, who shall, upon their own knowledge, swear to the identity of such fugi-

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tive, (the owner or claimant being, for this purpose, deemed a competent witness) or by the voluntary confession of such fugitive, that the person so apprehended hath escaped from the State wherein the said certificate was granted, and is the same person named in the said certificate, the said judge or justice shall deliver such person to the owner or his agent, with his certificate thereof, or, at the request of such owner or agent, shall issue his warrant, requiring any marshal, sheriff, sergeant, constable, or public bailiff, of such State or Territory, to take charge of such fugitive, and deliver him to the said claimant, &c., on the confines of the State or Territory last aforesaid;" and, by the same process, he shall be conducted to the place from which he absconded.

The most prominent exception which I shall note in the first section respects the character of the officers to be employed to take cognizance of a crime, and aid in carrying into effect the provisions of this bill. In this case, it is made the duty of two magistrates to take the testimony, that such fugitive, being very imperfectly described, is a slave, to award a certificate of this fact, to be verified and certified as therein directed. Here, sir, you call upon a State officer, under the State government, to perform a judicial act authorized by a law of the United States. Upon the services of this officer you have no claim; to demand them you have no power. This certificate, which is the foundation of a warrant, is granted without oath or affirmation, on a mere representation of the case.

By the second section, on producing this certificate, you make it the imperative duty of a justice of the peace to grant a warrant, authorizing a sheriff or constable (as he may please) to apprehend such fugitive, as therein imperfectly described, and bring him before such justice for examination. In this instance, you give as much validity to this certificate of a justice, granted in a distant State or Territory, as is given to a judgment obtained by a solemn decision of the Supreme Court of any State in the Union in any other State. In obtaining judgments or judicial decisions in civil actions you require witnesses upon oath; but here, where the liberty and rights of the citizen may be depending, you require none. Judgments out of the State where they are obtained, are considered no more than *prima facie* evidence of a debt; but in this respect the certificate is made stronger evidence of a fact. Here, contrary to all the ordinary rules in criminal prosecutions, you oblige a justice of the peace to issue his warrant to apprehend a person, without requiring the applicant to give oath or affirmation of the existence of a crime, or of the ground of suspicion. You require him to perform a judicial act, which may seriously and very materially affect the rights of the citizen, whose jurisdiction in civil actions is restricted to thirteen dollars thirty-three cents, and in criminal to six dollars sixty-six cents, by the constitution and laws of the State which gave him judicial existence. These remarks, however, particularly

apply to the State of New Hampshire. By the same section, you require and oblige (or subject to a fine) a constable or sheriff to perform an act under a law of the United States, which exposes and puts in jeopardy the freedom of the citizen, the most valuable privilege he can enjoy or possess here on earth.

The constable, under the laws of the State which are to direct his conduct, is not empowered to serve a precept where the sum demanded exceeds thirteen dollars thirty-three cents. He is chosen by a town, without a commission or responsibility, many times little informed, and generally unacquainted with your laws and the duties required under them. If a sheriff is employed, he is a county officer, appointed by the Governor and Council for five years, and knows no other duties than such as are pointed out to him by the laws of the State in which he lives, and particularly relate to his official conduct within the limits of the county in which he resides.

What is this officer directed to do? To arrest a fugitive upon a warrant, founded upon a certificate illegal in its origin and imperfect in its structure. The only description given of the fugitive by which the officer is to identify and be governed in making the arrests is, "name, age, and sex," which, in fact, is no description. There is neither color, size, nor any other marks required to be given, by which the officer can identify the person, or safely make an arrest.

Here, Mr. President, is a simple statement of facts, as they arise in examining this bill. I shall venture to say, the course here directed is improper. Nay, more: the United States cannot constitutionally demand, or employ, the agency of any other power than its own, to discharge duties and perform services, under criminal laws emanating from Congress. The Constitution of the United States expressly says, "The judicial power shall extend to *all* cases in law and equity arising under this Constitution, the laws of the United States, and the treaties made, or which shall be made, under their authority."

By this process of the Constitution, we may distinctly see where the judicial power of the United States is deposited—that the laws of the United States are to be explained and enforced only by officers created by the constituted authorities of the United States. Are State and county judges, and justices of the peace, officers made under the Government of the United States? If they are, they are so made by a law of Congress. Will it be pretended that Congress have authority, by a legislative act, to prescribe the duty, create the office and the officer, ordain and establish the court and the judge? The doctrine is preposterous; it is too absurd to be admitted for a moment; it would be an assumption of power inconsistent in its nature and dangerous in its consequences. A part of this duty is confided to another branch of the Government by the express provisions of the Constitution and immemorial usage. The Government of the United States is composed of three distinct branches—

each of which has duties to perform—the Legislative, Executive, and Judicial. They are designed to be kept as distinct and independent of each other as the nature of a free Government will admit. It is the province of the Legislature to make laws, not judges. You have lately passed a law dividing the State of Pennsylvania into two districts, by which a new court is created, but you have not created the judges. To do this by law would have been too manifest a violation of legislative power to be countenanced in this House. These State and county officers are not officers of this Government, and Congress have no claims upon their services as such. It is the duty of the Executive department to appoint officers. For this important feature in the structure of our Government there are many cogent reasons. The law, and the execution of the law, should always emanate from different sources. This is a fundamental principle in a republican Government. And when this principle is abandoned, one of the great barriers to the encroachments of power is annihilated—usurpation is the natural result, and collision must be the unavoidable consequence. It is the business of the judicial power to expound and execute the laws. For these duties the courts are qualified by their previous education and application to the general and particular principles of jurisprudence.

The extent of the several powers and duties of these respective branches of the Government are distinctly prescribed by the Constitution. Each has an orbit in which it may safely revolve, and, while it keeps within its own sphere, no danger will result from its legitimate action; but, when permitted to diverge, collision, confusion, and destruction are the inevitable consequences. It is not sufficient that an agent, who performs an act for the United States, be an officer of the United States; it must also appear that his authority to perform that act is derived from a legitimate source, otherwise the act is void. For an officer, in the District of Columbia, to apprehend a person, by virtue of a law of Virginia, would be an illegal arrest, and, of course, void. We may reverse the position. It is not competent for an officer, who executes a law of the General Government, to show that there is such a law; but, that he derived his office from the constituted authority of the United States. Apply this to the State or county officer whom you employ. A warrant, an arrest, a commitment, or trial, presupposes authority, power, and jurisdiction. The granting of a warrant, presupposes authority. To arrest, presupposes power. To commit or try, presupposes jurisdiction.

From what source does the county justice receive authority to arrest a person under a law of the United States? Surely not from the State, from the United States. You give him no authority—you cannot. The laws of the General Government do not make him a judicial officer, nor invest him with judicial power. He possesses powers for certain purposes, to be exercised according to the Constitution and laws of that

independent sovereignty from whom he derived all his authority.

On this view of the subject, sir, I am led to the conclusion that Congress has no Constitutional power to authorize an officer, under a State government, to perform a judicial act. As false premises give rise to incorrect conclusions, it may be proper for me distinctly to state and define my view of judicial power and a judicial act. Sound premises render sophistical reasoning unnecessary, and present the force of an argument in a convincing point of view. By judicial power, I understand Constitutional and "legal authority" and discretion to adjudicate on any matter, "which is, in some form or way, the subject of litigation and controversy; and he who exercises such authority and discretion, performs a judicial act." To declare what shall be a rule, or make a law, is an act of legislation; but to apply the law to the case, is a judicial act. Judicial discretion extends only to the application of the rules of law to the facts and circumstances of each case. And this discretionary power of applying the rules of law to the variety of cases which may be presented for adjudication carries with it other incidental powers, as the right to judge of the competency, pertinency, and credibility of evidence. If these positions are correct, it needs no argument to show, that, under the provisions of this bill, the judge or justice exercises judicial power in every instance in which he is authorized to act. On the application of the owner of a fugitive, or his agent, the judge or justice is to decide, in view of the testimony presented, whether he is a slave, and does owe service or labor to the claimant, according to the laws of the State or Territory from which such fugitive may have escaped. This being decided in the affirmative, the claimant, or his agent, enters into a recognisance, on certain conditions, to perform certain acts. In consequence of which the judge or justice grants his certificate, setting forth the name, age, and sex, of such fugitive, which certificate shall be verified by the signature of the person who grants it, and shall be certified by a clerk of a court that such officer is a judge or justice of the description required by this act.

This, sir, I consider a judicial act—not because giving a certificate of a fact is a judicial act, but because the certificate has, in its ultimate operation, the very nature of a warrant. The efficacy given to it, by the provisions of this bill, entirely changes it from the original character of a simple certificate, and makes it a sufficient warrant for a specific judicial act. On presenting this certificate to a judge or justice, in a State or Territory to which the fugitive may have escaped, it is made ample authority for him, nay, you declare it is his "duty to grant a warrant, authorizing a sheriff or constable to apprehend such fugitive and bring him before such magistrate; and if it shall thereupon appear to the satisfaction of such judge or magistrate," by the testimony then produced, "that the person so apprehended has escaped, &c., the said judge or justice shall

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'deliver such person to the owner, or his agent, with his certificate thereof, or, at the request of such owner, or agent, shall issue his warrant requiring any sheriff, &c., to take charge and custody of such fugitive, and deliver him," &c. If it shall here appear, on examination, by the testimony offered, that the person named in the certificate, and arrested, is a fugitive, the justice shall deliver him to the claimant, or issue his warrant, and commit him to the custody of an officer. In these instances, I presume, no one will contend that the justice does not perform judicial acts. If it is possible for a magistrate to exercise judicial power, it must be in the performance of the duties above enjoined.

It is not only in granting a warrant, but in determining on the competency of the testimony, and the legality of the duty performed, that this judicial power is exercised; it is the province of a judicial officer to judge of the propriety and exercise the power of issuing a warrant to arrest a person. This, I presume, is a principle universally admitted. "To judge of the grounds of an accusation, on which a warrant to arrest may or may not be issued, is as really a judicial act as the process of trial and condemnation." Neither names of office, forms of evidence, nor degree of criminality have any essential weight in determining the abstract nature and character of judicial power. This capacity to exercise the judgment, in view of testimony, for the purpose of removing doubts, obviating objections, and deciding on matters which are affirmed on the one part and presumed to be denied on the other, is always accompanied with a confidence of trust, the exercise of which, even in the incipient act of a justice of the peace, in granting a warrant to arrest a person, is an exercise of judicial power. This view of the subject perfectly coincides with the opinion of the judges of the Supreme Court of the United States, in the case of Judge Laurence. (3 Dallas's, rep. 53.) During the consular convention with France, Judge Laurence, being district judge of the United States, for the district of New York, was required by the vice consul of the French Republic to issue a warrant to apprehend Captain Barre, commander of a frigate, then lying in the harbor, belonging to the French Republic, as a deserter. The judge deemed it necessary, to justify him in granting a warrant, that the consul should prove by the roll of the ship that Captain Barre was one of the crew of the said frigate. The consul proposed other evidence, but the judge considered this indispensable; in consequence of which, application was made to the Supreme Court for a mandamus to compel the judge to issue a warrant. The court, on deliberation, decided the case and refused the mandamus; and, in assigning their reasons and expressing their opinion, say "it is evident that the district judge was acting in a judicial capacity, when he determined that the evidence was not sufficient to authorize his issuing a warrant." Hence, I conclude, that granting a warrant by a justice of the peace is one of those preparatory judicial acts which is a

portion of that judicial power which forms one of the great branches of our Government; and, being such, it can be performed under a law of the United States only, by a judge or justice of the United States, and not by any State or county judge or justice, as such. Were we to examine the principles of the common law on this subject, we should find that granting a warrant in that sense is a judicial act. But, notwithstanding all these Constitutional and legal embarrassments, you call upon the justice and enjoin it upon him to issue his warrant upon the certificate presented by the claimant or his agent. It will be natural for the justice to examine this instrument previous to his acting under it as competent authority; and, on this examination, will he not pause a moment? What is the pretended description given of the person to be apprehended? Only "name, age, sex"—not even stature nor color—which may be justly considered no description. But, further, will not the justice be led to inquire into the legality of this act and the propriety of his performing it? He is not an officer of the United States. From whom does he derive his authority to act in a judicial capacity? To whom is he accountable? What is to govern his conduct? As before observed, considering him a justice of the peace in the State of New Hampshire, he will have recourse to the constitution and laws of that State. This Constitutional instruction will be thus expressed: "No subject shall be held to answer for any crime or offence until the same is fully and plainly, substantially and formally described to him, or compelled to accuse or furnish evidence against himself; and every subject shall have a right to produce all proofs that may be favorable to himself, to meet the witnesses face to face, and to be fully heard in his defence by himself and counsel. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled or deprived of his life, liberty, or estate, but by the judgment of his peers or the law of the land. Every subject has a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. Therefore, all warrants to search suspected places or arrest a person for examination or trial, in prosecutions for criminal matters, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; and if the order in a warrant to a civil officer to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure; and no warrant ought to be issued but in cases with the formalities prescribed by law."

By this fundamental law of the State, we distinctly see that no warrant can be issued to arrest a person unless supported by oath or affirmation, with a special designation of the person to be apprehended. But neither of these is rendered

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essential by the bill now under consideration, as has been clearly shown, which I consider a very material defect that ought to be remedied by amendment.

The sentiments of Blackstone on this subject are in perfect unison with those which have been already advanced: "We are now," says Blackstone, Com. 289, 90, "to consider the regular and ordinary method of proceeding in the courts of criminal jurisdiction, which may be distributed under twelve general heads, following each other in progressive order, viz: 1, arrest; 2, commitment and bail; 3, prosecution; 4, process," &c. And, speaking of the arrest, he says "a justice of the peace hath power to issue a warrant to apprehend a person accused of felony, though not yet indicted; and he may also issue a warrant to apprehend a person suspected of felony, though the original suspicion be not in himself, but in the party who prays his warrant; because he is a competent judge of the probability offered to him of such suspicion. But in both cases it is fitting to examine, upon oath, the party requiring a warrant, as well to ascertain that there is a felony or other crime committed, without which no warrant should be granted, as also to prove the cause and probability of suspecting the party against whom the warrant is prayed." The prohibitions of the constitution of the State, and the essential prerequisites laid down by Blackstone, would seem amply sufficient to deter the reflecting magistrate from issuing his warrant to arrest a person, with all the imperfections justified by the provisions of this bill. But, when we recur to the express provisions of the Constitution of the United States, the only instrument which can give legitimacy to this bill, and find its details materially deficient, and, in some respects, directly prohibited, I conceive any further illustrations or arguments would be needless. Fourth article of the amendments—"the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." The perspicuity of this article in the Constitution is too clear to receive any additional light by comment; it is too definite to be misapprehended; it is too obligatory to be resisted or evaded.

Mr. President, I observed that Congress have no Constitutional power to authorize officers, commissioned by State Governments, to perform judicial duties under the criminal laws of the United States. Perhaps a moment's attention to the declarations of the Constitution on this subject, may place this position in a clearer point of view. Art. 3. sec. 1, "the judicial power of the United States shall be vested in one Supreme Court, and such inferior courts as the Congress may, from time to time, ordain and establish." Art. 1, sec. 8, "the Congress shall have power to constitute tribunals inferior to the Supreme Court," and,

Art. 3, sec. 2, "the judicial power shall extend to all cases in law and equity, arising under this Constitution, the laws of the United States, and the treaties made or which shall be made, under their authority." These specific declarations define the origin and the extent of the judicial power of the United States, in the most concise and conclusive manner. It distinctly shows from what source this power shall originate; where it shall be deposited; and how far, and to what cases it shall extend. Compare these with that part of the Constitution which defines Executive power. Art. 2, sec. 1, "the Executive power shall be vested in a President of the United States of America." But, however, "in case of the removal of the President from office, or of his death, resignation or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may, by law, provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected." Sir, I do not hesitate to say, Congress are not competent to vest this power in any other officer, while the President lives and holds the office. But why? Because this provision of the Constitution is definite and express—but no more than that which respects the other branch of the Government. The language is perfectly similar. "The judicial power shall be vested," &c., "the Executive power shall be vested," &c. From these express provisions, and positive prohibitions of the Constitution, the power of Congress is defined, in establishing courts of law, and the authority of the courts regulated in the performance of duty.

And it seems to follow, as an inevitable consequence, that Congress have no power nor right to prescribe where the judicial authority shall or shall not vest—they are not competent to say it shall not vest in a supreme and inferior court. No, they may constitute inferior courts, and distribute, and regulate judicial authority among the courts, as provided by the Constitution, but they have no right to invest such power in any manner whatever, differently from that which is explicitly prescribed by the Constitution.

Now, then, a question arises; do the provisions of this bill, requiring and commanding the performance of judicial duties, by State or county officers, ordain and establish an inferior court agreeably to the provisions of the Constitution? This, I presume, will not be pretended. Then the unavoidable result is, that officers commissioned by a State government, should they perform services under the laws of the United States, they are not United States officers; but are officers of courts of the State from which they received their commissions. If they are not transformed, from an officer or court of a State, to an officer or court of the United States, by a legislative act of Congress, then they have no authority to explain or enforce laws emanating from that source. In confirmation of these positions, I must again have

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recourse to the opinion of the Supreme Court of the United States, *Martin vs Hunter's Lessee*, 1, Wheaton 334. "In all cases arising under the Constitution, laws, and treaties of the United States, the State courts could not ordinarily, (that is, under the old confederation) possess a direct jurisdiction. Jurisdiction over such cases could not exist in State courts previous to the adoption of the Constitution, and could not afterwards be directly conferred on them; for the Constitution expressly requires the judicial power to be vested in courts ordained and established by the United States."

This opinion has been expressed in strong terms by the supreme courts of several of the principal States in the Union: viz. Ohio, Maryland, Pennsylvania, Virginia, and, I think, New York. No, sir, the transfer of this power to State or county officers cannot be done, it never ought to be done. The United States are an independent sovereignty, entirely distinct from the several State Governments. And each State is an independent sovereignty, as really so, as that of France and England. Hence the United States have no authority to enforce the laws of individual States; nor individual States the laws of other States, or those of the United States. I imagine it is a principle, established by all governments, that the expounding and enforcing of the penal laws of an independent State belongs exclusively to such State. The English courts adhere so rigidly to this salutary principle, that they will not enforce the revenue laws, nor any part of the penal code of any foreign State. The same principle has been scrupulously observed on the Continent of Europe. Even the several States which formerly composed the seven United Provinces, uniformly maintained this important doctrine; whose principles of government were more analogous to ours than those of any other nation whatever. In no instance would one Province presume to expound and enforce the penal laws of another. And we are taught, sir, from very high authority, that this principle has been applied, and extended in some instances to civil causes, as in the case of *Gason vs. Wordsworth*, 2, Vesey, 336, where a commission to take testimony being sent from the court of chancery of England to Sweden, the King of Sweden refused to execute the commission; requiring it to be done by some magistrate in Sweden, according to the laws of his Kingdom.

Something not altogether dissimilar to this took place in the State of Maryland, in the case of *McKean vs. Bruff*; a bill of discovery was filed in the chancery court of Maryland, stating that the defendant had knowledge of certain facts, to which he might depose, as material evidence for the plaintiff in a cause depending in Virginia; and therefore prayed that the defendant might be compelled to make affidavit of those facts, to be used in evidence in a suit depending in Virginia. To which bill the defendant demurred; and although the claim to the relief was pressed with great ability and argument, by Mr. Breckenridge, the plaintiff's counsel, the Chancellor sustained the demurrer, on the ground that the court had

no power to compel a witness to give evidence under such circumstances. The fourth article second section of the Constitution, which defines the mode in which a fugitive from justice in one State may be apprehended in another, and remanded for trial to the State whose criminal code had been violated, is a virtual recognition of this general rule, as to criminal cases. Hence, it seems very clear, that this general principle, that one State will not expound and enforce the criminal laws of another, admits of no exception. And, I believe, no State in this Union has violated the general principle, and I conclude they will not. But, here, sir, you command an individual, without any commission or compensation from your Government, to expound and enforce a law of the United States.

But, sir, permit me to take another view of the subject. It is not expedient for the United States to call on State and county officers, under State governments, to perform any duty under the criminal laws of Congress. It is much more suitable, correct, and proper, to empower only the officers of the General Government to execute its laws. It may justly be considered a perversion of the Constitution of the United States, and extremely dangerous, to commit power into the hands of those who are no way officially responsible; and, also, very unjust to exact service without compensation; especially, in many instances, where the State constitution and laws peremptorily prohibit the performance of such official acts with the informalities allowed by the provisions of this bill. With the officers of the United States it is otherwise. They derive their appointment and official existence from your Government, to be employed in your service in the execution of your laws; they are compensated by the General Government, responsible to it, removable and punishable by it, and upon their services you have just claims. But this connexion and mutual obligation between the Government of the United States and individual State and county officers does not, and cannot, exist. They derive their official existence and power from the government of the State in which they reside. The constitution and laws of their State define and regulate their power and duties; the extent of their jurisdiction in civil and criminal causes, and the tenure of their offices. They are commissioned to perform services for the State; they are compensated by the State; they are amenable to the State; they are removable and punishable by the State, and by that only.

Sir, allow me to present another difficulty. The tendency of this principle, if permitted by the States, and carried into general operation, is to derange and confuse the State authorities throughout the Union. If you can reasonably and justly demand the service of one State, or county officer, you may of two—there is no end to the demand. You certainly may, by parity of reasoning, use State and county courts, and officers, as agents to hear, try, and condemn, for any criminal violation of your laws. No distinction can be made—State and county courts may be de-



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stroyed. For, if the State tribunals can be invested with the jurisdiction, constitutionally, and expressly vested in the judicial officers of the United States, and the numerous, various, and complicated powers and duties of both combined, and invested in the same officer, it is very obvious that, in many instances, conflicting interests would ensue, and it might be extremely difficult, if not impossible, to determine what course might be the most eligible and correct to pursue. Sir, on recurring to the sixth section of this bill, another serious evil presents itself. You call upon a sheriff to perform a service, for which his commission gives him no authority; and you fine him five hundred dollars if he refuse or neglect. If he perform the service, he may be liable to indictment and imprisonment, and, if he neglect the service, he is liable to a fine of five hundred dollars. This liability, in part, arises from the extreme imperfection of the description required by this bill. Nothing but "name, age, and sex." I will illustrate this suggestion by an example: Suppose a person applies to a justice in the extreme part of the county of Rockingham, in New Hampshire, for a warrant to apprehend a fugitive in Portsmouth? The sheriff is governed entirely by the directions in the precept, and the instructions of the agent. He, under the direction of the agent, seizes a person as a fugitive, and conducts him to the justice who issued the warrant. Here he is identified by the agent, delivered over to him, and conducted to Georgia. But, in consequence of the imperfection of the description, the ignorance or design of the agent, on examination in Georgia, he proves not to be the fugitive intended by the certificate. He is therefore discharged, and returns to his home, enters his complaint, and brings his action against the sheriff for false imprisonment, who may, under the operation of this bill, be subjected to all the embarrassments which I have suggested. Add to this, sir, the penalty, which is recoverable for the sole benefit of the slave claimant, together with all damages which may accrue.

Sir, I did intend to make a few remarks upon the ninth section, and also upon the complete suspension of the habeas corpus; but, as many of my reflections have been anticipated by other honorable gentlemen, and as the patience of the Senate, at this late hour, must be nearly exhausted, I will close my remarks, by observing that I present these crude suggestions at this time, that the Committee may consent to a recommitment of the bill, to review it in its various parts, amend it where it is necessary, and present it to the House in a more unexceptionable form.

TUESDAY, March 10.

On motion, by Mr. WILLIAMS of Tennessee, the Committee on Military Affairs, to whom was referred the memorial of Richard Varick and others, surviving officers of the Revolutionary army, were discharged from the further consideration thereof.

The Senate resumed the consideration of the

report of the Committee of Claims, to whom was referred the petition of William Gamble; and, in concurrence therewith, resolved that the petitioner have leave to withdraw his petition.

Mr. STORER submitted the following motion for consideration:

*Resolved*, That the Committee on Post Offices and Post Roads be instructed to inquire into the causes which so frequently prevent the due arrival of the public mail.

Mr. GOLDSBOROUGH presented the memorial of the Mayor, Aldermen, and Common Council of the City of Washington, praying that the 12th and 13th sections of the act of July 1st, 1812, may be modified or repealed, to relieve them from the interference of the Levy Court, and that the avenues and areas formed by such large public ways, diverging from the rectangular streets, with the bridges, trees, and lamps, which may be deemed useful or ornamental to them, may be improved by the United States, and placed under the direction and care of the Superintendent of the Public Buildings, or that such other aid be given to them as to Congress may seem just and reasonable; and the memorial was read, and referred to the Committee on the District of Columbia.

Mr. ROBERTS presented the petition of Benjamin G. Orr, and others, citizens of Washington, praying the incorporation of a fire insurance company; and the petition was read, and referred to the same committee.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the memorial of John Hall; and the further consideration thereof was postponed until Friday next.

The two bills and the resolution brought up yesterday for concurrence were read, and severally passed to the second reading.

The bill for the relief of Cata Bunnell, was read the second time.

On motion by Mr. FROMENTIN, the petition of Anthony Cavalier and Peter Petit, of the State of Louisiana, presented at the last session of Congress, praying the confirmation of their title to a certain tract of land in said State, was referred to the Committee on Public Lands.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to reduce the staff of the Army; and, on motion by Mr. WILLIAMS, of Tennessee, the further consideration thereof was postponed until Thursday next.

The Senate resumed the consideration of the bill, entitled "An act fixing the compensation of the Secretary of the Senate and Clerk of the House of Representatives, and of the clerks employed in their offices, together with the amendments reported thereto by a select committee; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly, and the amendments having been concurred in, and the bill further amended, the amendments were ordered to be engrossed, and the bill was read a third time as amended.

A message from the House of Representatives

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informed the Senate that the House have passed a bill, entitled "An act respecting the district courts of the United States within the State of New York," in which bill they request the concurrence of the Senate.

The bill last mentioned was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill extending the time for locating military land warrants, in certain cases; and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill respecting certain sections of land in the State of Ohio, reserved for the purposes of religion; and the bill having been amended, on motion by Mr. CAMPBELL, the further consideration thereof was postponed until Friday next.

The Senate resumed, as in Committee of the Whole, the bill authorizing a subscription for the eleventh volume of State Papers; and on motion by Mr. DAGGETT, the further consideration thereof was postponed until Tuesday next.

### WEDNESDAY, March 11.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom the subject was referred, reported a bill concerning the bounty or allowance to fishing vessels in certain cases; and the bill was read, and passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Margaret White, widow of Colonel Anthony Walton White, made a report, accompanied by a resolution, that the petitioner have leave to withdraw her petition. The report and resolution were read.

Mr. ROBERTS, from the same committee, to whom was referred the petition of Benjamin Wells, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read.

Mr. ROBERTS, from the same committee, to whom was referred the petition of James Moore, also made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition and documents.

On motion by Mr. WILLIAMS, of Tennessee, Thomas Robinson and others, a committee in behalf of the surviving officers of the Pennsylvania line of the Revolutionary Army, and Richard Varick and others, surviving officers of the Revolutionary Army, had leave to withdraw their petitions respectively.

On motion by Mr. ROBERTS, the Committee of Claims, to whom was referred the petition of Joseph W. Page, were discharged from the further consideration thereof, and the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the 15th CON. 1st SESS.—9

motion of the 10th instant for instructing the Committee on the Post Offices and Post Roads to inquire into the causes which so frequently prevent the due arrival of the public mail; and agreed thereto.

The resolution, which originated in the Senate, fixing the time for the adjournment of the first session of the fifteenth Congress, was read the second time.

The resolution from the House of Representatives, fixing the time for the adjournment of the first session of the fifteenth Congress, was read the second time.

The bill, entitled "An act to alter the time of holding the circuit court in the southern district of New York, and for other purposes," was read the second time, and referred to the Committee on the Judiciary.

The bill, entitled "An act respecting the district courts of the United States within the State of New York," was read the second time, and referred to the same committee.

The bill, entitled "An act altering the time for holding a session of the district court in the District of Maine," was read the second time, and referred to the same committee.

Mr. ROBERTS, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Samuel Ward; and the bill was read, and passed to the second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States :*

In compliance with a resolution of the Senate, requesting information respecting the requisitions that were made on the contractors, between the 1st of June and the 24th of December, 1817, for deposits of provisions, in advance, at the several posts on the frontiers of Georgia, and the adjoining territory; their conduct in compliance therewith; the amount of money advanced to B. G. Orr, and the extent of his failure, with a copy of the articles of contract entered into with him, I now lay before the Senate a report from the Secretary of War, which, with the documents accompanying it, will afford the information desired.

JAMES MONROE.

WASHINGTON, March 11, 1818.

The Message, together with the report and accompanying documents, were read.

### FUGITIVE SLAVES.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory;" and the bill having been further amended, on motion by Mr. RUGGLES, that the further consideration thereof be postponed until the first Monday in July next, it was determined in the negative—yeas 11, nays 18, as follows:

YEAS—Messrs. Burrill, Daggett, Horsey, Hunter, King, Morrow, Noble, Roberts, Ruggles, Tichenor, and Van Dyke.

NAYS—Messrs. Campbell, Crittenden, Dickerson, Eppes, Fromentin, Gaillard, Goldsborough, Johnson,

Leake, Macon, Otis, Sanford, Smith, Tait, Talbot, Taylor, Williams of Mississippi, and Williams of Tennessee.

On motion by Mr. DAGGETT to strike out the following section of the bill:

SEC. 6. *And be it further enacted*, That whenever the Executive authority of any State in the Union, or of either of the Territories thereof, shall, for or in behalf of any citizen or inhabitant of such State or Territory, demand any fugitive slave of the Executive authority of any State or Territory, to which such slave shall have fled, and shall moreover produce a certificate, issued pursuant to the first section of this act, it shall be the duty of the Executive authority of the State or Territory to which such fugitive shall have fled, to cause him or her to be arrested and secured, and notice of the arrest to be given to the Executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause such fugitive to be delivered to the said agent, on the confine or boundary of the State or Territory in which said arrest shall be, and in the most usual and direct route to the place from whence the said fugitive shall have escaped; and the reasonable expense of such arrest, detention, and delivery of such fugitive, shall be paid by the said agent.

It was determined in the negative—yeas 13, nays 16, as follows:

YEAS—Messrs. Burrill, Daggett, Dickerson, Horsey, Hunter, King, Lacock, Morrill, Noble, Roberts, Ruggles, Tichenor, and Van Dyke.

NAYS—Messrs. Campbell, Crittenden, Eppes, Fromentin, Gaillard, Goldsborough, Leake, Macon, Otis, Smith, Stokes, Tait, Talbot, Taylor, Williams of Mississippi, and Williams of Tennessee.

On motion by Mr. VAN DYKE, to insert in section 2, line 13, after "certificate," "and doth, under the laws of the State or Territory from which he or she fled, owe service or labor to the person claiming him or her;" it was determined in the negative—yeas 11, nays 18, as follows:

YEAS—Messrs. Burrill, Daggett, Horsey, Hunter, Lacock, Morrill, Noble, Roberts, Ruggles, Storer, and Van Dyke.

NAYS—Messrs. Campbell, Crittenden, Eppes, Fromentin, Gaillard, Goldsborough, Johnson, King, Leake, Macon, Otis, Sanford, Smith, Stokes, Tait, Talbot, Williams of Mississippi, and Williams of Tennessee.

The bill having been further amended, the PRESIDENT reported it to the House accordingly; and the amendments having been concurred in, on motion by Mr. LACOCK, to add the following section to the bill:

"SEC. —. *And be it further enacted*, That this law shall be and remain in force for the term of four years, and no longer."

The Senate being equally divided, the PRESIDENT determined the question in the affirmative; and, on the question, "Shall the amendments be engrossed and the bill be read a third time, as amended?" it was determined in the affirmative.

THURSDAY, March 12.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the memorial of a com-

mittee on behalf of the surviving officers of the Revolutionary Army, soliciting an equitable settlement of the half-pay for life, as promised by the resolves of Congress, made a report, accompanied by a resolution, that the petitioners have leave to withdraw their petition. The report and resolution were read.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom was referred the petition of Benjamin G. Orr and others, reported a bill to incorporate a fire insurance company in the City of Washington; and the bill was read, and passed to the second reading.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the petition of John Adlum, made a report thereon; which was read.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Ashael Clark, made a report thereon; which was read. He also reported a bill for the relief of Ashael Clark; and the bill was read, and passed to the second reading.

Mr. CAMPBELL, from the Committee on Finance, to whom the subject was referred, reported a bill to authorize the Secretary of the Treasury to repay or remit certain alien duties therein described; and the bill was read, and passed to the second reading.

Mr. SANFORD presented the petition of Belinda Bowie, of Brooklyn, New York, whose husband, a sailing-master in the service of the United States, was lost in the *Epervier*, leaving her with five children, entirely unprovided for, and praying relief; and the petition was read, and referred to the Committee on Naval Affairs.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Margaret White, widow of Colonel Anthony Walton White; and in concurrence therewith, the petitioner had leave to withdraw her petition.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of James Moore; and in concurrence therewith, the petitioner had leave to withdraw his petition and documents.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Benjamin Wells; and in concurrence therewith, resolved that the prayer of the petitioner ought not to be granted.

The bill concerning the bounty or allowance to fishing vessels in certain cases, was read the second time.

The bill for the relief of Samuel Ward, was read the second time.

The engrossed bill for extending the time for obtaining military land warrants in certain cases, was read a third time, and passed.

The bill, entitled "An act fixing the compensations of the Secretary of the Senate and Clerk of the House of Representatives, and of the clerks employed in their offices," was read a third time, as amended, and passed. The title being amended so as to read "An act fixing the compensations of the Secretary of the Senate and Clerk of the

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House of Representatives, of the clerks employed in their offices, and of the Librarian."

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act altering the time for holding a session of the district court in the District of Maine, reported the same without amendment.

Mr. CRITTENDEN, from the same committee, to whom was referred the bill, entitled "An act to alter the time of holding the circuit court in the Southern district of New York, and for other purposes," reported the same without amendment.

Mr. CRITTENDEN, from the same committee, to whom was referred the bill, entitled "An act respecting the district courts of the United States within the State of New York," reported the same with an amendment; which was read.

The Senate resumed the consideration of the bill respecting the transportation of persons of color for sale or to be held to labor; and no further amendment having been proposed thereto, the bill was ordered to be engrossed and read a third time.

On motion by Mr. MORROW, the Senate resumed, as in Committee of the Whole, the consideration of the bill allowing additional salary and clerk hire to the surveyor for the Illinois and Missouri Territories, and for other purposes; and an amendment having been proposed thereto, the further consideration thereof was postponed until to-morrow.

Mr. KING presented the memorial of Aquilla Giles, who was a major in the Revolutionary Army, stating that in December 1782, he received a warrant from the War Office, drawn on the Paymaster General of the Army, for five hundred dollars, being the amount of pay due him for that year, which was not paid, the Paymaster not having funds, and praying the passage of an act authorizing the officers of the Treasury to pay the same, together with the interest thereon; and the memorial was read, and referred to the Committee of Claims.

Mr. HUNTER presented the memorial of Francis Henderson and family, heirs and representatives of John Laurens, deceased, a lieutenant colonel in the Army of the United States, and some time commissioned by Congress special Minister to the Court of France, praying the allowance of a certain claim exhibited in the memorial, with provision for the discharge of the same; and the memorial was read, and referred to the Committee of Claims.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, reported a bill to regulate the fees of public notaries in the county of Washington, in the District of Columbia; and the bill was read, and passed to the second reading.

Mr. WILLIAMS, of Mississippi, presented the memorial of the Legislature of the State of Mississippi, praying the passage of a law giving to the original purchasers who have or may forfeit their lands, on or before the 1st day of May, 1819, the right of pre-emption or preference to purchase

the same; and the memorial was read, and referred to the Committee on Public Lands.

The amendments to the bill, entitled "An act to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory," having been reported by the committee correctly engrossed, the bill was read a third time as amended; and, on the question, "Shall this bill pass as amended?" it was determined in the affirmative—yeas 17, nays 13, as follows:

YEAS—Messrs. Campbell, Crittenden, Epes, Fromentin, Gaillard, Goldsborough, Johnson, Macon, Otis, Sanford, Smith, Stokes, Tait, Talbot, Taylor, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Burrill, Daggett, Dickerson, Horsey, Hunter, King, Lacock, Morrow, Noble, Roberts, Ruggles, Tichenor, and Van Dyke.

So it was *Resolved*, That this bill pass with amendments.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Michael Hogan, made a report; which was read. He also reported a bill for the relief of Michael Hogan; and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize the establishment of naval depots and dock yards; and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans; and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution providing for the distribution of the laws of the Fourteenth Congress among the members of the Fifteenth Congress, who have not been supplied therewith; and the same having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the resolution was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, in addition to an act, entitled "An act to promote the progress of useful arts," together with the amendments reported thereto by a select committee; and, the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and, the amendments being concurred in, the bill was ordered to be engrossed, and read a third time.

FRIDAY, March 13.

Mr. TAYLOR presented the petition of sundry inhabitants of the town of Vincennes, in the State of Indiana, praying to be permitted to change the

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location of certain lands therein described; and the petition was read, and referred to the Committee on Public Lands.

The bill for the relief of Ashael Clark was read the second time.

The bill to authorize the Secretary of the Treasury to repay or remit certain alien duties therein described, was read the second time.

The bill to regulate the fees of public notaries in the county of Washington, in the District of Columbia, was read the second time.

The bill for the relief of Michael Hogan was read the second time.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the memorial of John Hall, praying that Congress may pass a law authorizing the allowance of one hundred and fifty doubloons in the settlement of his accounts at the Navy Department, which he states to have been robbed from him; and on motion by Mr. STORER, the further consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the report of the Committee on the District of Columbia, to whom was referred the petition of John Adlum; and, in concurrence therewith, the committee were discharged from the further consideration of the petition.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the memorial of a committee on behalf of the surviving officers of the Revolutionary Army, soliciting an equitable settlement of the half-pay for life, as promised by the resolves of Congress; and, on the question to agree thereto, it was determined in the affirmative—yeas 23, nays 3, as follows:

YEAS—Messrs. Burrill, Crittenden, Daggett, Dickerson, Eppes, Horsey, Hunter, King, Lacock, Macon, Morrow, Noble, Roberts, Ruggles, Sanford, Smith, Stokes, Storer, Tait, Talbot, Taylor, Tichenor, and Williams of Mississippi.

NAYS—Messrs. Goldsborough, Johnson, and Van Dyke.

So it was resolved, that the petitioners have leave to withdraw their petition.

The bill in addition to an act, entitled "An act to promote the progress of useful arts," was read a third time.

*Resolved*, That this bill pass, and that the title thereof be, "An act to extend the jurisdiction of the circuit courts of the United States to cases arising under the law relating to patents."

The resolution directing the distribution of the laws of the Fourteenth Congress among the members of the Fifteenth Congress, was read a third time, and passed.

The bill respecting the transportation of persons of color, for sale or to be held to labor, was read a third time, and passed.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the petition of Godfrey H. Belding, late a Lieutenant in the Army of the United States, made a report, accompanied by a resolution, that the petitioner have leave to with-

draw his petition. The report and resolution were read.

The Senate resumed the consideration of the bill to authorize the establishment of naval depots and dock yards; and the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans; and the further consideration thereof was postponed to, and made the order of the day for, Monday next.

On motion by Mr. MORROW, the Senate resumed, as in Committee of the Whole, the consideration of the bill allowing additional salary and clerk hire to the surveyor for the Illinois and Missouri Territories, and for other purposes; and, the bill having been amended, the PRESIDENT reported it to the House accordingly; and, the amendments being concurred in, the bill was ordered to be engrossed, and read a third time.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the petition of Belinda Bowie, made a report, accompanied by a resolution, that the petitioner have leave to withdraw her petition. The report and resolution were read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to reduce the Staff of the Army; and the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill respecting certain sections of land in the State of Ohio, reserved for purposes of religion; and, the bill having been amended, the PRESIDENT reported it to the House accordingly; and, the amendments being concurred in, the bill was ordered to be engrossed, and read a third time.

The Senate adjourned to Monday morning.

MONDAY, March 16.

Mr. STORER submitted the following motion for consideration:

*Resolved*, That the Secretary of War be instructed to procure copies of the existing militia laws of the several States and Territories, with correct reports of the number and organization of their militia, and cause the same to be laid before the Senate on the first week of their next session.

The Senate resumed the consideration of the report of the Committee on Naval Affairs, to whom were referred the memorial of certain officers of the Navy, and also the memorial of certain officers of the Marine Corps, attached to the Mediterranean squadron; and, on motion by Mr. TAIT, the further consideration thereof was postponed until Wednesday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom were referred the memorials and petitions of sundry merchants, underwriters, and insurance companies, on the subject of French depredations; and,

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on motion by Mr. ROBERTS, the further consideration thereof was postponed until this day two weeks.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the memorial of John Hall, late a Major in the United States Marine Corps; and the further consideration thereof was postponed until Monday next.

Mr. WILLIAMS, of Tennessee, from the committee to whom was referred the bill to provide for the purchase and distribution of the Laws of the United States, reported the same, with amendments; which were read.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of Representatives of the United States:*

In compliance with a resolution of the Senate of the 6th of December, and of the House of Representatives of the 24th of February last, I lay before Congress a report of the Secretary of State, and the papers referred to in it, respecting the negotiation with the Government of Spain. To explain fully the nature of the differences between the United States and Spain, and the conduct of the parties, it has been found necessary to go back to an early epoch. The recent correspondence, with the documents accompanying it, will give a full view of the whole subject, and place the conduct of the United States, in every stage, and under every circumstance, for justice, moderation, and a firm adherence to their rights, on the high and honorable ground which it has invariably sustained.

JAMES MONROE.

WASHINGTON, March 14, 1818.

The Message, together with the accompanying documents, were read, and two hundred additional copies thereof ordered to be printed for the use of the Senate.

The following Message was also received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with a resolution of the Senate of the United States, of the 31st of December last, requesting the President to cause to be laid before them a statement of the proceedings which may have been had under the acts of Congress, passed on the 3d March, 1817, entitled "An act to set apart and dispose of certain public lands for the encouragement and cultivation of the vine and olive," I now transmit a report from the Secretary of the Treasury, containing all the information possessed by the Executive, relating to the proceedings under the said act.

JAMES MONROE.

WASHINGTON, March 16, 1818.

The Message and accompanying report were read.

The following Message was also received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with a resolution of the Senate of the United States, of the 3d of February last, requesting the President to cause to be laid before them "a statement of the progress made under the act to provide for surveying the coast of the United States, passed February 10th, 1817, and any subsequent acts on the same subject, and the expenses incurred thereby," I

transmit a report from the Secretary of the Treasury, containing the information required.

JAMES MONROE.

WASHINGTON, March 16, 1818.

The Message and accompanying report were read.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, reported a bill, supplemental to an act, entitled "An act further to amend the charter of the City of Washington;" and the bill was read, and passed to the second reading.

The bill allowing additional salary and clerk hire to the surveyor for the Illinois and Missouri Territories, and for other purposes, was read a third time, the blank filled with "three," and passed.

The bill respecting certain sections of land in the State of Ohio, reserved for purposes of religion, was read a third time.

*Resolved*, That this bill pass, and that the title thereof be, "An act to vest, in trust, certain sections of land in the Legislature of the State of Ohio."

The Senate resumed the consideration of the report of the Committee on Naval Affairs, to whom was referred the petition of Belinda Bowie; and, in concurrence therewith, the petitioner had leave to withdraw her petition.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Godfrey H. Belding; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

Mr. MORROW presented the memorial of Michael Jones, Register of the land office at Kaskaskias, stating the inadequacy of the compensation he has received, and praying relief; and the memorial was read, and referred to the Committee on Public Lands.

The bill to incorporate a fire insurance company in the City of Washington, was read the second time.

The Senate resumed as in Committee of the Whole, the consideration of the bill for adjusting the claims to land, and establishing land offices in the districts east of the island of New Orleans; and, sundry amendments having been proposed thereto by Mr. JOHNSON, on motion by Mr. TALBOT, the further consideration thereof was postponed to, and made the order of the day for Wednesday next, and the proposed amendments were ordered to be printed for the use of the Senate.

Mr. ROBERTS submitted the following motion for consideration:

*Resolved*, That a committee be appointed to inquire into the expediency of making further provisions, by law, for preventing the introduction of slaves into the United States from any foreign kingdom, place, or country.

Mr. LACOCK presented the petition of Benoni Williams, of Indiana, praying compensation for the loss of sundry articles of clothing while in the service of the United States, as stated in the petition; which was read, and referred to the Committee of Claims.



The Senate resumed, as in Committee of the Whole, the consideration of the bill to reduce the staff of the Army; and, after debate, the Senate adjourned.

TUESDAY, March 17.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, reported a bill to make valid certain acts of the justices of the peace in the District of Columbia; and the bill was read, and passed to the second reading.

Mr. EPPES presented the memorial of Gales and Seaton, of Washington, stating their intention to publish a History of the Proceedings of Congress, and praying a subscription for such number of copies as may be required for the public institutions of the country; and the memorial was read, and referred to a select committee, to consider and report thereon, by bill or otherwise. Messrs. EPPES, KING, and BURRILL, were appointed the committee.

The bill supplemental to the act, entitled "An act further to amend the charter of the City of Washington," was read the second time.

The Senate resumed the consideration of the motion of the 16th instant, for instructing the Secretary of War to procure copies of the existing militia laws of the several States and Territories, with correct reports of the number and organization of their militia, and cause the same to be laid before the Senate on the first week of their next session; and agreed thereto.

The Senate resumed the consideration of the motion of the 16th instant, for appointing a committee to inquire into the expediency of making further provisions, by law, for preventing the introduction of slaves into the United States from any foreign kingdom, place, or country; and, having agreed thereto, Messrs. ROBERTS, BURRILL, DAGGETT, MACON, and SMITH, were appointed the committee.

Mr. HORSEY presented the petition of John Rudolph, of Wilmington, Delaware, praying compensation for losses sustained in furnishing rations to the army during the late war with Great Britain; and the petition was read, and referred to the Committee of Claims.

On motion by Mr. MACON, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of giving the assent of Congress to an act of the General Assembly of North Carolina, entitled "An act for the relief of sick and disabled seamen," passed the 23d of December, A. D. 1817.

On motion by Mr. CRITTENDEN, the Senate resumed, as in Committee of the Whole, the consideration of the resolution of the House of Representatives, fixing the time for the adjournment of the first session of the Fifteenth Congress; and, on motion by Mr. DAGGETT, that the further consideration thereof be postponed until next Monday week, it was determined in the affirmative—yeas 16, nays 15, as follows:

YEAS—Messrs. Burrill, Daggett, Dickerson, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, John-

son, King, Lacock, Morrill, Morrow, Otis, Storer, and Tait.

NAYS—Messrs. Crittenden, Eppes, Leake, Noble, Roberts, Ruggles, Sanford, Smith, Stokes, Talbot, Taylor, Troup, Van Dyke, Williams of Miss., and Williams, of Tennessee.

The Senate resumed the consideration of the bill to authorize the establishment of naval depots and dock yards; and, on motion by Mr. KING, the further consideration thereof was postponed until to-morrow. Whereupon,

Mr. KING submitted the following motion for consideration:

*Resolved*, That the President of the United States be, and hereby is, requested to cause to be resumed and completed, a survey of the harbors of Boston, Newport, New York, with the two entrances thereof, of the waters of the lower Chesapeake bay, and of York river, for the purpose that two suitable stations may be selected for the establishment of arsenal ports; that in connexion with, and aid of the naval officers to be employed in this service, officers of the corps of engineers be joined, with instructions to survey the harbors and waters aforesaid, and the islands and shores in and about the same, and to report sketches of the works necessary for the protection of the several places so surveyed, with estimates of the expense of their construction, and of the force requisite to defend the same. That these surveys and reports be laid before the Senate during the first week of the next session of Congress, with a designation of the two stations, which, in the separate or joint opinion of the persons so employed as aforesaid, are the most fit for the establishment of two arsenal ports as aforesaid.

On motion by Mr. KING, the Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Ashael Clark; and, no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to reduce the staff of the Army; and, an amendment having been proposed thereto, on motion by Mr. KING, the bill, together with the proposed amendment, were referred to the Committee on Military Affairs.

On motion by Mr. CAMPBELL, the Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize the Secretary of the Treasury to remit or pay certain alien duties therein described; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to adjust the claims to lots in the town of Vincennes, and for the sale of the land appropriated as a common for the use of the inhabitants of the said town; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

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The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the progress of useful arts, and to repeal the acts heretofore made for that purpose, together with the amendments reported thereto by a select committee; and, on motion by Mr. DAGGETT, the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution for an amendment to the Constitution of the United States, in relation to internal improvements; and, on motion by Mr. LACOCK, the further consideration thereof was postponed until Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Anderson;" and, on motion by Mr. RUGGLES, the further consideration thereof was postponed until this day two weeks.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for altering the time for holding the district court for the district of Virginia; and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill respecting the surveying and sale of public lands in the Alabama Territory; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of John Small, and no amendment having been made thereto, the PRESIDENT reported it to the House, and the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to defray the expenses of the militia when marching to places of rendezvous; and no amendment having been made thereto, the PRESIDENT reported it to the House, and the bill was ordered to be engrossed and read a third time.

#### WEDNESDAY, March 18.

Mr. RUGGLES presented the memorial of Shubael Canans, of Michigan Territory, praying to be discharged from the payment of bonds given to secure the duties on merchandise necessarily transported through Canada, on their way from New York to Detroit; and the memorial was read, and referred to the Committee on Finance.

The bill to make valid certain acts of the justices of the peace in the District of Columbia, was read the second time.

The Senate resumed the consideration of the report of the Committee of Commerce and Manufactures, to whom was referred the memorial of Thomas Tenant and George Stiles, of the city of Baltimore, merchants and ship owners, pray-

ing that certificates of registry may be granted to their vessels; and, on motion of Mr. SANFORD, the further consideration thereof was postponed until Wednesday next.

The Senate resumed the consideration of the motion of the 17th instant, for resuming and completing a survey of certain harbors and waters for the purpose that two suitable stations may be selected for the establishment of arsenal ports; and the same having been amended, was agreed to as follows:

*Resolved*, That the President of the United States be, and hereby is, requested to cause to be resumed and completed, a survey of the harbors of Portsmouth, Boston, Newport, New London, New York, with the two entrances thereof, of the waters of the lower Chesapeake Bay, and of York river, for the purpose that two suitable stations may be selected for the establishment of arsenal ports; and in connexion with, and aid of, the naval officers to be employed in this service, officers of the Corps of Engineers be joined, with instructions to survey the harbors and waters aforesaid, and the islands and shores in and about the same, and to report sketches of the works necessary for the protection of the several places so surveyed, with estimates of the expense of their construction, and of the force requisite to defend the same.

That these surveys and reports be laid before the Senate during the first week of the next session of Congress, with a designation of the two stations, which, in the separate or joint opinion of the persons so employed as aforesaid, are the most fit for the establishment of the two arsenal ports aforesaid.

The bill, entitled "An act for altering the time for holding the district court for the district of Virginia," was read a third time, and passed.

The bill to authorize the Secretary of the Treasury to repay or remit certain alien duties therein described, was read a third time, and passed.

The bill to adjust the claims to lots in the town of Vincennes, and for the sale of the land appropriated as a common, for the use of the inhabitants of the said town, was read a third time, and passed.

The bill to defray the expenses of the militia, when marching to places of rendezvous, was read a third time, and passed.

The bill for the relief of John Small, was read a third time, and passed.

The bill respecting the surveying and sale of public lands in the Alabama Territory, was read a third time, and passed.

#### THURSDAY, March 19.

The Senate resumed the consideration of the bill to authorize the establishment of naval depots and dock yards; and the further consideration thereof was postponed until to-morrow.

The Senate resumed the report of the Committee on Naval Affairs, to whom were referred the memorial of certain officers of the Navy, and

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also of the memorial of certain officers of the Marine Corps attached to the Mediterranean squadron; and, on motion by Mr. TAIT, the consideration thereof was further postponed until the first Monday in April next.

On motion of Mr. EPPES, the President of the United States was requested to cause to be laid before the Senate, an estimate of the sum necessary for the establishment of two docks for the purpose of repairing vessels of the largest size.

A message from the House of Representatives informed the Senate that they have passed the resolution directing the distribution of the laws of the fourteenth Congress among the members of the fifteenth Congress, with an amendment, in which they request the concurrence of the Senate; and also the resolution directing the publication and distribution of the Journal and proceedings of the Convention which formed the present Constitution of the United States, with an amendment, in which they also request the concurrence of the Senate:

They have passed a bill, entitled "An act to provide for the due execution of the laws of the United States within the State of Mississippi;" a bill, entitled "An act to provide for the erection of a court-house, jail, and public offices, within the county of Alexandria, in the District of Columbia;" a bill, entitled "An act for the relief of Abraham Byington;" a bill, entitled "An act to authorize the payment of certain certificates;" a bill, entitled "An act authorizing the election of a delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of the said Territory;" a bill, entitled "An act for the relief of General Moses Porter;" and also a resolution authorizing the transportation of certain documents free of postage; in which bills and resolution they request the concurrence of the Senate.

The six bills and the resolution last brought up for concurrence were read, and severally passed to the second reading.

On motion, the resolution authorizing the transportation of certain documents free of postage, was read the second time, by unanimous consent, and considered as in Committee of the Whole; and no amendment having been made thereto, the President reported the resolution to the House; and it passed to the third reading, and it was read a third time, by unanimous consent, and passed.

On motion, the Senate proceeded to consider the amendment of the House of Representatives to the resolution directing the distribution of the laws of the fourteenth Congress, among the members of the fifteenth Congress, and concurred therein.

The Senate proceeded to consider the amendment of the House of Representatives to the resolution directing the publication and distribution of the Journal and proceedings of the Convention which formed the present Constitution of the United States, and concurred therein.

On motion, by Mr. RUGGLES, the Committee on Public Lands were instructed to inquire into

the expediency of extending the jurisdiction and laws of the Territory of Michigan to the eastern boundary of the Illinois Territory.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for adjusting claims to land, and establishing land offices in the districts east of the Island of New Orleans, together with the amendments proposed thereto; and, on the question to agree to the first amendment proposed, as follows:

"Sec. 1, line 8, after the word 'several,' strike out to the end of the section, and insert—

"Reports of the Commissioners, and which are derived from the Spanish Government, or claimed by donation, and are, in the opinion of the Commissioner, valid, agreeably to the laws, usages, and customs, of the Spanish Government, be, and the same are hereby, recognised as valid and complete titles against any claim on the part of the United States; and all the British grants contained therein, which have not been subsequently regranted by the Spanish Government, or are not claimed in right of donation, or preference to purchase, granted or authorized by this act, be, and they are hereby, confirmed and recognised as valid."

It was determined in the negative—yeas 9, nays 19, as follows:

YEAS—Messrs. Burrill, Fromentin, Hunter, Johnson, Macon, Morrill, Talbot, Tichenor, and Williams of Mississippi.

NAYS—Messrs. Barbour, Crittenden, Daggett, Epes, Gaillard, Horsey, King, Lacock, Morrow, Noble, Otis, Ruggles, Sanford, Smith, Storer, Tait, Taylor, Van Dyke, and Williams of Tennessee.

FRIDAY, March 20.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the petition of John G. Bogert, of the city of New York, made a report; which was read. He also reported a bill for the relief of John G. Bogert; and the bill was read, and passed to the second reading.

Mr. CRITTENDEN, from the Committee on the Judiciary, reported a bill prescribing the mode of commencing, prosecuting, and deciding, controversies between two or more States; and the bill was read, and passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Anthony Gale, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read.

Mr. ROBERTS, from the committee, to whom was referred the petition of Benoni Williams, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. ROBERTS, from the same committee to whom was referred the petition of Richard Frisby, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read.

Mr. ROBERTS, from the same committee to whom was referred the petition of Phineas Meigs, also made a report, accompanied by a resolution, that the prayer of the petitioner ought not to

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be granted. The report and resolution were read.

The bill, entitled "An act to provide for the due execution of the laws of the United States within the State of Mississippi," was read the second time, and referred to the Committee on the Judiciary.

The bill, entitled "An act to provide for the erection of a court-house, jail, and public offices, within the county of Alexandria, in the District of Columbia," was read the second time, and referred to the Committee on the District of Columbia.

The bill, entitled "An act to authorize the payment of certain certificates," was read the second time, and referred to the Committee on Finance.

The bill, entitled "An act for the relief of Abraham Byington," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act authorizing the election of a Delegate from Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory," was read the second time, and referred to the Committee on Public Lands.

The bill, entitled "An act for the relief of General Moses Porter," was read the second time, and referred to the same committee.

Mr. SANFORD presented the petition of Samuel F. Hooker, of Sackett's Harbor, praying compensation for property destroyed by the United States troops during the late war with Great Britain; and the petition was read, and referred to the Committee of Claims.

The Senate resumed the consideration of the bill to authorize the establishment of naval depots and dock yards; and, on motion by Mr. EPPES, the further consideration thereof was postponed until Monday next.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the bill to reduce the staff of the Army, reported the same with an amendment; which was read.

The PRESIDENT communicated the general account of the Treasurer of the United States, from the 1st of January, 1816, to the 1st of January, 1817, as also the accounts of the War and Navy Departments, from the 1st of October, 1816, to the 1st of October, 1817, together with the report thereon; which were read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for adjusting claims to land, and establishing land offices in the districts east of the island of New Orleans, together with the amendments proposed thereto; and after debate, the further consideration thereof was postponed until to-morrow.

On motion by Mr. TALBOT, the committee on so much of the President's Message as relates to roads, inland navigation, and seminaries of learning, were instructed to inquire into the propriety and expediency of providing by law for the subscription, on the part of the United States, for certain shares in the "Kentucky Ohio Canal Company," reserved for the United States by the

act of incorporation of the said company, passed at the last session of the Kentucky Legislature.

Mr. KING presented the petition of Catharine M. Smith, of Long Island, New York, praying compensation for a horse killed by a guard of the 42d regiment of infantry, in the month of September, 1814; and the petition was read, and referred to the Committee of Claims.

The Senate resumed, as in Committee of the Whole, the consideration of the bill authorizing a subscription for the eleventh volume of State Papers; and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it was ordered to be engrossed and read a third time.

Mr. CAMPBELL, from the committee to whom was referred the bill to authorize the State of Tennessee to issue grants and perfect titles on certain entries and locations of lands therein described, reported the same with amendments; which were read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the compensation of certain judges of the courts of the United States; and the further consideration thereof was postponed until Wednesday next.

On motion by Mr. TALBOT, the committee appointed on the 4th instant, to inquire into the expediency of adopting some measures proper for the speedy extinguishment of the Indian title to certain lands, were discharged from the further consideration thereof.

The Senate resumed, as in Committee of the Whole, the consideration of the bill regulating the pay and emoluments of brevet officers; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

#### NEGOTIATION WITH HOLLAND.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of Representatives of the United States:*

In the course of the last Summer a negotiation was commenced with the Government of the Netherlands, with a view to the revival and modification of the commercial treaty existing between the two countries, adapted to their present circumstances.

The report from the Secretary of State, which I now lay before Congress, will show the progress of the conferences between the respective Plenipotentiaries, and which resulted in the agreement between them, then, to refer the subject to the consideration of their respective Governments. As the difficulties appear to be of a nature which may, perhaps, for the present, be more easily removed by reciprocal legislative regulations, formed in the spirit of amity and conciliation, than by conventional stipulations, Congress may think it advisable to leave the subsisting treaty in its present state, and to meet the liberal exemption from discriminating tonnage duties which has been conceded in the Netherlands to the vessels of the United States, by a similar exemption to the vessels of the Netherlands, which have arrived, or may hereafter arrive, in our ports, commencing from the time when the exemption

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was granted to the vessels of the United States. I would further recommend to the consideration of Congress the expediency of extending the benefit of the same regulation, to commence from the passage of the law, to the vessels of Prussia, Hamburg, and Bremen, and of making it prospectively general, in favor of every nation in whose ports the vessels of the United States are admitted, on the same footing as their own.

JAMES MONROE.

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DEPARTMENT OF STATE, *March 17, 1818.*

The Secretary of State has the honor of submitting to the consideration of the President the correspondence herewith enclosed, between the Envoys Extraordinary of the United States at the Court of the Netherlands, and the Plenipotentiaries appointed by that Government for the purpose of renewing and extending the Commercial Treaty already existing between the two countries. The failure of this negotiation is to be attributed principally to two obstacles which arose in the progress of the discussions between the respective Plenipotentiaries; one proceeding from an essential principle in the commercial regulations of this country, and the other from a principle of like character in the kingdom of the Netherlands.

The law of March 3, 1815, authorizing a partial repeal of the discriminating duties which operate against foreign shipping, and the merchandise imported in them, required, as a condition of that repeal, the abolition of all discriminating or countervailing duties of any foreign nation to whose advantage it should enure, so far as they operate to the disadvantage of the United States; and on this condition the acts of the United States, imposing discriminating duties, were declared to be repealed only so far as respects the produce or manufacture of the nation to which the foreign ship or vessel might belong. The law, therefore, required a total abolition of discriminating or countervailing duties in the foreign nation, operating against the United States, and offered only a partial repeal of our discriminating duties, which operated against them, in return. From an imperfect view of the provisions of this act, which can be fully understood only by collating it with the general system and the particular provisions of the acts imposing discriminating duties, part of which only it proposed to repeal, the Government of the Netherlands, and others, appear to have understood it as offering a total repeal of all discriminating duties, as well of tonnage as upon merchandise of every description, without distinction of origin. The power of the President was, however, restricted by the terms of the law.<sup>4</sup> The laws of the Netherlands imposed discriminating duties of tonnage, and on merchandise imported in foreign vessels, but without any distinction with regard to the origin of the merchandise. When, therefore, they revoked their discriminating duties so far as respected the United States, they considered themselves, by the act of Congress of March 3, 1815, entitled to a total repeal of the discriminating duties in the United States, operating against them; not only the tonnage duties, but those upon merchandise, whether of the produce or manufacture of the Netherlands, or of any other country. This was, however, not warranted by the act of March 3, 1815, nor could it be stipulated by treaty, without involving consequences affecting the commercial relations between the United States and other countries. The revocation of the discriminating duties upon mer-

chandise imported in vessels of the Netherlands, would be of little avail, if limited to articles, the produce or manufacture of that country, the principal part of whose exportations consist of the produce and manufacture of others. But, on the other hand, if that distinction in our navigation and revenue laws, should be broken down with respect to one nation, it could be with difficulty, if at all, maintained with regard to any other.

The other difficulty which occurred in the negotiation, related to the admission of vessels of the United States into the colonies of the Netherlands, if not upon the same footing as into the ports of the Netherlands in Europe, at least upon that of the most favored nation. To this it was objected by the Plenipotentiaries of the Netherlands, that certain favors were granted by them to other nations themselves possessing colonies, for the equivalent of similar favors conceded in return, which could not be conceded to a nation possessing no colonies, and therefore not enabled to concede the equivalent. The same objection having been made by the British Government to the admission of vessels of the United States into their colonies, it appears to deserve attention how far the principle itself is justifiable, and how far the United States ought to acquiesce in it. There are various grounds upon which it appears objectionable. 1. Because all the other maritime States, possessing colonies more or less significant, a classification, however general in terms, which applies, by way of exclusion, to the United States alone, is manifestly a measure savoring of hostility to them, as much as if it was applied to them by name. 2. Because the United States not only, by the constant and unparalleled rapid increase of their own population, but by the great enlargement of their territory, and the admission of new States, producing almost all the articles of European colonies in this hemisphere, afford to all the commercial nations of Europe an equivalent similar in principle, and infinitely more valuable than the mere admission to two or three small islands of the West Indies, which is all that some of the European States can grant for access to the colonies of the others. 3. The United States have a just claim to a free trade with most of the colonies of the West India islands, founded in the occasional indispensable necessities of the latter. If the United States should exercise their unquestionable right of meeting prohibition with prohibition, the very existence of these islands would be in jeopardy whenever they should be visited by those hurricanes which so frequently happen among them. It would be ungenerous, and scarcely reconcilable to the principles of humanity, should the United States avail themselves of those calamitous occurrences to stop, on their part, the intercourse which at all other times is interdicted to them. By the laws of nature, no society can be justifiable in adopting measures towards another State, which may compel the latter to retaliate, in self-defence, by measures incompatible with humanity; yet such is the character of the intercourse permitted by several of the European nations between their colonies in the West Indies and the United States. Thus we have seen, within the last half year, the exclusion of our vessels from the ports of several West India islands, and their readmission, announced almost in the same gazettes. That readmission, however, is limited to the time indispensable for saving the colony from famine and utter desolation. There is something so glaringly unequal and selfish in these alternatives of arbitrary interdiction and of compulsory intercourse,

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that it is believed the nations of Europe, possessing colonies, cannot fail of being ultimately made sensible of it, and of consenting to establish an intercourse upon principles more permanent and more favorably marked with reciprocity.

In the mean time, as the Government of the Netherlands have placed the vessels of the United States, arriving in their ports, in regard to tonnage duties, on the same footing with their own, it is believed to be consistent with sound policy to extend the same principle to the vessels of the Netherlands arriving in the ports of the United States. The same liberality may be extended to the vessels of Prussia, Hamburg, and Bremen, who, by virtue of the like regulations in their respective ports, have claimed the benefit of the proffer made in the law of March 3, 1815. As an act of Congress is necessary for the purpose, perhaps the most expedient course would be to make it general, and, limiting its operation to the tonnage duties, or charges upon vessels, to declare that no other or higher duties of that description than are paid by vessels of the United States, shall be paid in the ports of the United States by the vessels of any European nation, in whose ports no other or higher duties of the same kind are paid by vessels of the United States, than by the vessels of such European nation itself. The measure in respect to the Netherlands, is of immediate urgency; the regulation in favor of the vessels of the United States there having already been more than a year in force, in the confidence that the corresponding measure on the part of the United States would have been adopted of course, by virtue of the act of March 3, 1815.

JOHN QUINCY ADAMS.

The Message and accompanying report were read.

The Senate adjourned to Monday morning.

MONDAY, March 23.

Mr. SANFORD, from the Committee of Commerce and Manufactures, to whom the subject was referred, reported a bill for the relief of the President, Directors, and Company, of the Merchants' Bank of Newport, in Rhode Island; and the bill was read, and passed to the second reading.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was referred a resolution of the Senate, instructing them to inquire into the expediency of "extending the provisions of the law prescribing the mode in which the public acts, records, and judicial proceedings in each State shall be authenticated, so as to take effect in every other State, to the public acts, records, and judicial proceedings of the several Territories of the United States," made a report, "that, in the opinion of the committee, further legislation on the subject is unnecessary and inexpedient;" and the report was read.

Mr. RUGGLES submitted the following motion for consideration:

*Resolved*, That the Committee on Finance be instructed to inquire into the expediency of extending further time to the purchasers of public lands to complete their payment for the same.

The PRESIDENT communicated the memorial of the Legislature of the Alabama Territory, pray-

ing to be invested, by law, with power to incorporate companies for the purpose of constructing turnpike roads, with exclusive privileges and right of toll; and to give such further aid in relation thereto as Congress may deem proper; and the memorial was read, and referred to the committee to whom was referred so much of the Message of the President of the United States as relates to roads, inland navigation, and seminaries of learning, to consider and report thereon.

Mr. LACOCK presented the petition of James Brady, of Westmoreland county, in the State of Pennsylvania, praying the renewal of two warrants for Revolutionary bounty lands, stated to have been deposited by his order in the land office, and which cannot now be found; and the petition was read, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the memorial of John Hall; and the further consideration thereof was postponed until Thursday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Anthony Gale; and the further consideration thereof was postponed until Wednesday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Benoni Williams; and, in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Phineas Meigs; and the further consideration thereof was postponed until to-morrow.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Richard Frisby; and the further consideration thereof was postponed until Thursday next.

The bill for the relief of John G. Bogert was read the second time.

The bill prescribing the mode of commencing, prosecuting, and deciding controversies between two or more States, was read the second time.

On motion by Mr. BARBOUR, the Message from the President of the United States, of the 19th instant, and communicated the 20th, together with the accompanying report of the Secretary of State, in relation to a negotiation which was commenced with the Government of the Netherlands, was referred to the Committee on Foreign Relations.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Cata Bunnell; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution which originated in the Senate, fixing the time for the



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adjournment of the first session of the fifteenth Congress; and on motion by Mr. ROBERTS, the further consideration thereof was postponed until to-morrow week.

Mr. BARBOUR gave notice, that to-morrow he should ask leave to bring in a bill to augment the salaries of certain officers therein mentioned.

The Senate resumed, as in Committee of the Whole, the consideration of the bill concerning the bounty or allowance to fishing vessels in certain cases; and no amendment having been made thereto, the PRESIDENT reported it to the House, and the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Samuel Ward; and no amendment having been made thereto, the PRESIDENT reported it to the House, and the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act altering the time for holding a session of the district court in the District of Maine;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The bill authorizing a subscription for the eleventh volume of the State Papers, was read a third time, the blank filled with "1,300," and passed.

The bill regulating the pay and emoluments of brevet officers, was read a third time, and passed.

The Senate resumed the consideration of the bill to authorize the establishment of naval depots and dock yards; and the bill having been amended, on motion by Mr. TAIT, the further consideration thereof was postponed until Wednesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for adjusting claims to land and establishing land offices in the districts east of the island of New Orleans.

On motion by Mr. MORROW, to strike out, sec. 1, line 3, "all the claims to land," and insert, in lieu thereof, "the United States for ever relinquish any claim whatever to the lands embraced by the several claims," it was determined in the affirmative—yeas 21, nays 9, as follows:

YEAS—Messrs. Burrill, Campbell, Crittenden, Daggett, Dickerson, Eppes, Gaillard, Horsey, Hunter, King, Morrow, Noble, Otis, Roberts, Ruggles, Smith, Stokes, Storer, Taylor, Tichenor, and Van Dyke.

NAYS—Messrs. Fromentin, Johnson, Lacock, Macon, Morrill, Sanford, Talbot, Williams of Mississippi, and Williams of Tennessee.

The bill having been further amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

I lay before the Senate a report from the Secretary of the Navy with the estimate of the expense which

will be incurred, by the establishment of two dock yards, for repairing vessels of the largest size.

JAMES MONROE.

WASHINGTON, March 23, 1818.

The Message together with the accompanying report and estimate were read.

On motion, by Mr. BARBOUR, the Message from the President of the United States, transmitting the correspondence between the Department of State, and the Spanish Minister residing here, showing the present state of the relations between the two Governments, was referred to the Committee on Foreign Relations.

Mr. CAMPBELL, from the Committee on Finance, to whom the subject was referred, reported a bill for the relief of Israel Thorndike, and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to alter the time of holding the circuit court in the southern district of New York, and for other purposes;" and the bill having been amended the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill was read a third time, as amended.

Mr. DICKERSON gave notice that to-morrow he should ask leave to bring in a resolution directing medals to be struck, and, together with the thanks of Congress, presented to Major General Harrison and Governor Shelby, and for other purposes.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act respecting the district courts of the United States within the State of New York," together with the amendment reported thereto by the Committee on the Judiciary, the amendment was disagreed to, and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed and the bill was read a third time as amended.

TUESDAY, March 24.

Mr. SMITH presented the petition of John Haslett, of the city of Charleston, praying an act may be passed remitting the penalties by him innocently incurred on the importation of thirty-six puncheons of rum in the brig Margaret, Captain Halm, from Porto Rico, in July, 1812, as stated in the petition; which was read, and referred to the Committee on Finance.

On motion, by Mr. DAGGETT, the Message from the President of the United States, transmitting a statement of the proceedings which may have been had under the act of Congress, passed on the 3d of March, 1717, entitled "An act to set apart and dispose of certain public lands, for the encouragement and cultivation of the vine and olive," was referred to the Committee on Public Lands.

Mr. SANFORD, from the Committee of Commerce and Manufactures, to whom the subject was referred, reported a bill declaring the consent of Congress to an act of the Legislature of the

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State of North Carolina, for the relief of sick and disabled American seamen; and the bill was read, and passed to the second reading.

Mr. RUGGLES presented two petitions of sundry inhabitants of the State of Ohio, praying the establishment of a certain post route; and the petitions were read, and referred to the Committee on Post Offices and Post Roads.

Mr. ROBERTS presented the memorial of Benjamin G. Orr, requesting an investigation of his conduct, as contractor for supplying the troops in South Carolina and Georgia; and the memorial was read.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of John Bate;" a bill, entitled "An act to extend the privilege of franking to vaccine agents of States or Territories;" a bill, entitled "An act authorizing the legal representatives of William Daniel to file, with the proper register of the land office, a Spanish patent for a tract of land lying in the State of Mississippi;" a bill, entitled "An act confirming the claim of Tobias Rheams to a tract of land granted to him by the Spanish Government;" a bill, entitled "An act authorizing John Taylor to be placed on the list of navy pensioners;" a bill, entitled "An act for the relief of Narcissus Broutin and others;" and a bill entitled "An act for the relief of Daniel Burnet, Gibson Clark, and the legal representatives of Hubert Rowell;" and also, a resolution directing the Secretary for the Department of State to prepare an index to the acts and resolutions of Congress, after the close of every session; in which bills and resolution they request the concurrence of the Senate.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the petition of Alexander Levie, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. BARBOUR asked and obtained leave to bring in a bill to increase the salaries of certain officers of Government; and the bill was read twice by unanimous consent.

The bill for adjusting the claims to land and establishing land offices in the districts east of the island of New Orleans, was read a third time; and the blanks having been filled, on the question, "Shall this bill pass?" it was determined in the negative—yeas 9, nays 12, as follows:

YEAS—Messrs. Campbell, Daggett, Gaillard, Morrow, Roberts, Ruggles, Smith, Van Dyke, and Williams of Mississippi.

NAYS—Messrs. Burrill, Dickerson, Eppes, Fromentin, Morsey, Hunter, Johnson, Lacock, Macon, Stokes, Storer, and Talbot.

So the bill was rejected.

The amendments to the bill, entitled "An act to alter the times of holding the circuit court in the southern district of New York, and for other purposes," having been reported by the committee correctly engrossed, was read a third time as amended, and passed.

The title was amended so as to read "An act to alter the times of holding the circuit court of the United States for the district of Connecticut."

The amendments to the bill, entitled "An act respecting the district courts of the United States within the State of New York," having been reported by the committee correctly engrossed, the bill was read a third time as amended; and the title was amended by striking out the word "district."

*Resolved*, That this bill pass with amendments.

#### CASE OF R. W. MEADE.

Mr. BARBOUR, from the Committee on Foreign Relations, to whom was referred the petition of sundry citizens of Philadelphia, asking the interposition of Congress in behalf of Richard W. Meade, an American citizen, unjustly and wantonly confined in a dungeon in Spain, by the authority of that Government, made a report; which was read, as follows:

The Committee of the Senate on Foreign Relations, to whom was referred the petition of sundry citizens of Philadelphia, asking the interposition of Congress in behalf of Richard W. Meade, an American citizen, unjustly and wantonly confined in a dungeon in Spain, by the authority of that Government, have given to the subject the deliberation its importance deserved, and beg leave to submit the following report: It appears from the documents, R. W. Meade is an American citizen, who went to Spain in the year 1803 on lawful business; that in the year 1806, such was the confidence of the Government in his integrity, that he was appointed Navy Agent for the United States at the port of Cadiz; a station which he held until the time of his confinement. Such was the correctness of his deportment, as to have been appointed by the tribunal of commerce at Cadiz, with the consent of all the parties concerned, assignee of a bankrupt, the amount of whose estate involved a high responsibility. He performed the duties thus devolved upon him, honestly; and, having collected for distribution fifty thousand dollars, he several times petitioned the tribunal to permit him to remit this sum to the creditors of the bankrupt resident in England; the only proper course left him to pursue, inasmuch as he had, when appointed agent of the bankrupt, given his bond to that tribunal conditioned to take charge of the effects of the bankrupt, and to be responsible solely to the tribunal for the proceeds, being prohibited under the penalty of the bonds from disposing of the funds without the sanction of the tribunal. A controversy having arisen between the creditors and bankrupt about the distribution, Meade offered the money to either, if they would give bond, with sureties, to the satisfaction of the tribunal of commerce, by which his own might be cancelled. This they were unable to do. The tribunal, of its own accord, and unexpectedly, decided that Meade should, on the following morning, place the money in the King's treasury, until the parties litigant should give the security required; it being declared that all Meade's property should be sequestered in the case of non-payment at the time limited. The money was forthwith paid by Meade into the treasury, in treasury notes equal to specie, and hence acknowledged by the Treasurer, that the deposit had been made in due form, under his inspection, in effective specie, and that

whenever the tribunal should order its payment, His Majesty would pay it in the same coin.

Notwithstanding this judgment, and the discharge thereof, by the payment aforesaid, Mr. Dermot, the agent for the British creditors, brought suit against Meade in the same court to recover the very sum he had heretofore paid in conformity to its own judgment. The court awarded judgment against Meade a second time for this money. The latter appealed to the superior tribunal, called *Abradas*. During its pendency, it is charged by Meade, that the cause was removed, by the interposition of the British Minister, to the council of war, and, by the same interposition, his arrest and confinement were procured, from which he could be relieved only by a repayment of the money. He has languished in confinement from the 2d of May, 1816, down to the last accounts from Spain.

The Representative of this nation at that Court has repeatedly appealed to His Catholic Majesty for the relief of Meade; and the appeal has been in vain—the Court of Spain having refused either to restore the money deposited in its own treasury, by order of its own competent judicial authority, or to release the person of Meade from the long confinement to which he had been doomed; and, finally, the President of the United States, whose peculiar province is to take cognizance of subjects of this kind, has caused a representation on the subject to be made to the Minister of Spain to the United States, demanding his immediate liberation. Nothing but a confidence that this representation will produce the desired result, would have restrained your committee from recommending the adoption of measures of severe retribution.

Your committee are of opinion, that it is due to the dignity of the United States to adopt, as a fundamental rule of its policy, the principle, that one of its citizens, to whatever region of the earth his lawful business may carry him, and who demeans himself as becomes his character, is entitled to the protection of his Government, and whatever intentional injury may be done him should be retaliated by the employment, if necessary, of the whole force of the nation.

#### MEDALS TO HARRISON AND SHELBY.

Mr. DICKERSON, agreeably to notice given yesterday, asked leave to introduce a resolution offering the thanks of Congress to Major General William Henry Harrison and Isaac Shelby, late Governor of Kentucky, for their distinguished bravery and good conduct in capturing the British army under command of Major General Proctor, at the battle of the *Thames*, in Upper Canada, on the 5th of October, 1813.

I should not, said Mr. DICKERSON, at this late day, highly as I think of the merits of those officers who, in co-operation with the hero of Lake Erie, turned the tide of war in our favor, bring forward the present resolution, if no similar attempt had heretofore been made in their favor, but would leave their fame to rest upon the testimony of impartial history, which has already done ample justice to their characters.

Two years ago a resolution like the present was reported to this House by the chairman of the Committee on Military Affairs, by direction of that committee. This resolution was opposed on two grounds, applying solely to General Harrison, as I have been informed, for I had not then the honor of being a member of this body: the

first, that an inquiry was at that time depending before the House of Representatives into the official conduct of General Harrison as commander in chief of the northwestern army, upon charges which, if well founded, were calculated essentially to injure his character; the second, that a rumor prevailed that General Harrison had discovered some reluctance in pursuing Proctor and his army after Perry's victory on Lake Erie, and that he had been forced to the pursuit by the remonstrances of Governor Shelby, and that this information had been derived from the declarations of Governor Shelby. These charges, utterly unfounded as they turned out to be, were deemed a sufficient reason for postponing a decision of the report of the committee until the result of the inquiry before the House of Representatives should at least be known. The resolution, after some discussion, was referred to the committee who reported it, further to consider and report thereon. As the session was near its close no further report was made, and indeed no further report could with propriety have been made, until the investigation before the House of Representatives should be brought to a termination. This did not happen till the 23d of January, 1817, a little more than a month before the termination of a very important session, when the public business of the most pressing kind required the entire attention of Congress, so that this subject could not with propriety have been renewed until the present session.

As the friends of General Harrison have it now in their power completely to obviate every objection heretofore made to the passage of this resolution, it is their duty to bring this subject again before Congress, more especially as the journals of this House, if left unexplained, imply a censure upon the conduct of General Harrison, which certainly was never intended. I will confess, for one, that on a perusal of the journals of this House, the military reputation of General Harrison sunk in my estimation; and I believe this confession might be made by three-fourths of the citizens of the United States who read the proceedings of Congress, and who had not an intimate knowledge of the character and conduct of General Harrison. I should reproach myself for having suffered such an impression to be made upon my mind, if the means of correcting it had also been found upon the journals. Those journals did not then afford the means of correct information upon this subject, nor do they till this day.

As to the first objection, that an investigation was depending in the House of Representatives into the official conduct of General Harrison, the result of that investigation was in the highest degree honorable to his character. The committee to whom the subject was referred were unanimously of opinion that General Harrison stood above suspicion of being implicated in the charges exhibited against him, and that in his whole conduct as commander-in-chief of the northwestern army he was governed by a laudable zeal for and devotion to the public service and interest.

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The second objection made to the passage of the resolution, if well founded, was calculated to give to Governor Shelby the entire and exclusive merit of having urged the pursuit of Proctor and his army. But Shelby, generous as he is brave, disclaims this exclusive merit, and in a letter, which I beg leave to read, denies in the most positive terms having used the language ascribed to him; and he gives to General Harrison the highest praise for his promptitude and vigilance in pursuing Proctor; for the skill with which he arranged his troops for meeting the enemy, and for his distinguished bravery during the battle. He states that the duties of General Harrison, as commander-in-chief of the northwestern army, were in the highest degree arduous; but that, from the zeal and fidelity with which they were performed, they could not have been committed to better hands. Of these particulars no one could know better, no one could judge better, than Governor Shelby. I have many other documents and papers to show that Governor Shelby was not mistaken in the statements which he has made, which I will read if any doubt shall be expressed upon this subject. I trust, however, that no such doubt will be entertained, and am confident that honorable gentlemen will now, upon a full knowledge of the facts, feel a pleasure in awarding to General Harrison that testimony of applause which a sense of duty induced them formerly to withhold.

I shall not pronounce any encomiums upon the gallantry of the venerable patriot, the intrepid hero, Governor Shelby. His distinguished services during the late war, as well as those of the Revolutionary war, will be remembered to the latest posterity. Of him and the brave officers and men who, under the command of General Harrison, achieved the glorious victory at the battle of the Thames, one sentiment pervades the Union, that they merit every mark of distinction which Congress and a grateful country can bestow.

Mr. D. then offered the following resolution:

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled,* That the thanks of Congress be and they are hereby presented to Major General William Henry Harrison, and Isaac Shelby, late Governor of Kentucky, and through them to the officers and men under their command, for their gallantry and good conduct in defeating the combined British and Indian forces under Major General Proctor, on the Thames, in Upper Canada, on the fifth day of October, one thousand eight hundred and thirteen, capturing the British army, with their baggage, camp equipage, and artillery; and that the President of the United States be requested to cause two gold medals to be struck, emblematical of this triumph, and presented to General Harrison and Isaac Shelby, late Governor of Kentucky.

The resolution was read and passed to a second reading.

WEDNESDAY, March 25.

Mr. SANFORD, from the Committee of Commerce and Manufactures, to whom was referred the petition of Richard H. Wilcocks, made a re-

port, "that the petitioner should have leave to withdraw his petition;" and the report was read.

Mr. RUGGLES, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Abraham Byington," reported the same without amendment.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the petition of Thomas Patten, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Eli Hart, made a report, accompanied by a bill for the relief of Eli Hart; and the report and bill were read, and passed to the second reading.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act to provide for the due execution of the laws of the United States within the State of Mississippi," reported the same without amendment.

The seven bills and the resolution brought up yesterday for concurrence were read, and severally passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Catharine M. Smith, administratrix on the estate of J. D. Smith, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read.

Mr. DICKERSON presented the petition of Samuel Kirkendall, of New Jersey, who was captain of militia in the Revolutionary war, and is now reduced to indigence, praying relief; and the petition was read, and referred to the Committee on Pensions.

The bill for the relief of Israel Thorndike, was read the second time.

The bill for the relief of the President, Directors, and Company of the Merchants' Bank, of Newport, in Rhode Island, was read the second time.

The bill declaring the consent of Congress to an act of the State of North Carolina, for the relief of sick and disabled American seamen, was read the second time.

The resolution directing medals to be struck, and, together with the thanks of Congress, presented to Major General Harrison and Governor Shelby, and for other purposes, was read the second time.

The Senate resumed the consideration of the report of the Committee on the Judiciary, to whom was referred a resolution of the Senate, instructing them to inquire into the expediency of "extending the provisions of the law prescribing the mode in which the public acts, records, and judicial proceedings in each State shall be authenticated, so as to take effect in every other State, to the public acts, records, and judicial proceedings of the several Territories of the United States," and concurred therein.

The Senate resumed the consideration of the

report of the Committee of Claims, to whom was referred the petition of Phincas Meigs; and in concurrence therewith, resolved that the prayer of the petitioner ought not to be granted.

Mr. TROUP submitted the following motion for consideration:

*Resolved*, That the Committee on the Militia be instructed to inquire into the expediency of setting apart, and appropriating the dividends which shall arise from the shares held by the Government in the Bank of the United States, to the manufacture of arms and equipments for arming and equipping the whole body of the militia of the United States.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Anthony Gale; and the further consideration thereof was postponed until Friday next.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Alexander Levie; and, on motion by Mr. NOBLE, it was recommended to the Committee on Pensions, further to consider and report thereon.

The Senate resumed the consideration of the motion of the 24th instant, for instructing the Committee on Finance to inquire into the expediency of extending further time to the purchasers of public lands to complete their payments for the same; and agreed thereto.

The Senate resumed the consideration of the bill to authorize the establishment of naval depots and dock yards; and, on motion by Mr. TAIT, the bill, together with the Message of the President of the United States of the 23d instant, upon that subject, was referred to the Committee on Naval Affairs, to consider and report thereon.

The engrossed bill for the relief of Cata Bunnell, was read a third time, and passed.

The engrossed bill for the relief of Samuel Ward, was read a third time, and passed.

The engrossed bill concerning the bounty or allowance to fishing vessels in certain cases, was read a third time, and passed.

The bill, entitled "An act altering the time for holding a session of the district court in the District of Maine," was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to regulate the fees of public notaries in the county of Washington, in the District of Columbia; and no amendment having been made thereto, the PRESIDENT reported it to the House; and it was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to incorporate a fire insurance company in the City of Washington; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, the bill was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to provide for the purchase and distribution of the laws of

the United States, together with the amendments reported thereto by a select committee; and the amendments having been agreed to, and the bill further amended, on motion by Mr. NOBLE, the further consideration thereof was postponed until the first Monday in July next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill supplemental to the act, entitled "An act further to amend the charter of the City of Washington;" and no amendment having been made thereto, the PRESIDENT reported it to the House; and it was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to make valid certain acts of the justices of the peace in the District of Columbia; and no amendment having been made thereto, the PRESIDENT reported it to the House, and it was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to authorize the State of Tennessee to issue grants and perfect titles on certain entries and locations of lands therein described, together with the amendments reported thereto by a select committee; and the amendments having been amended were agreed to; and the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, on the question, "Shall this bill be engrossed, and read a third time?" it was determined in the affirmative—yeas 20, nays 2, as follows:

YEAS—Messrs. Barbour, Burrill, Campbell, Daggett, Dickerson, Gaillard, Horsey, Johnson, King, Morrow, Noble, Otis, Roberts, Ruggles, Storer, Tait, Tichenor, Van Dyke, Williams of Tennessee, and Wilson.

NAYS—Messrs. Macon and Stokes.

#### SEMINOLE INDIANS.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

I now lay before Congress all the information in the possession of the Executive, respecting the war with the Seminoles, and the measures which it has been thought proper to adopt, for the safety of our fellow-citizens on the frontier exposed to their ravages. The enclosed documents show, that the hostilities of this tribe were unprovoked, the offspring of a spirit long cherished, and often manifested towards the United States, and that, in the present instance, it was extending itself to other tribes, and daily assuming a more serious aspect. As soon as the nature and object of this combination were perceived, the Major General commanding the Southern division of the troops of the United States, was ordered to the theatre of action, charged with the management of the war, and vested with the powers necessary to give it effect. The season of the year being unfavorable to active operations, and the recesses of the country affording shelter to these savages, in case of retreat, may prevent a prompt termination of the war, but it may be fairly presumed that it will not be long before this tribe, and its associates, receive the punishment which they have provoked, and justly merited.

MARCH, 1818.

*Staff of the Army.*

SENATE.

As almost the whole of this tribe inhabits the country within the limits of Florida, Spain was bound, by the Treaty of 1795, to restrain them from committing hostilities against the United States. We have seen, with regret, that her Government has altogether failed to fulfil this obligation, nor are we aware that it made any effort to that effect. When we consider her utter inability to check, even in the slightest degree, the movements of this tribe, by her very small and incompetent force in Florida, we are not disposed to ascribe the failure to any other cause. The inability, however, of Spain, to maintain her authority over the territory, and Indians within her limits, and in consequence to fulfil the treaty, ought not to expose the United States to other and greater injuries. When the authority of Spain ceases to exist there, the United States have a right to pursue their enemy, on a principle of a self-defence. In this instance, the right is more complete and obvious, because we shall perform only what Spain was bound to have performed herself. To the high obligations and privileges of this great and sacred right of self-defence will the movement of our troops be strictly confined. Orders have been given to the General in command, not to enter Florida, unless it be in pursuit of the enemy, and in that case, to respect the Spanish authority, wherever it is maintained, and he will be instructed to withdraw his forces from the province, as soon as he shall have reduced that tribe to order, and secure our fellow-citizens, in that quarter, by satisfactory arrangements, against its unprovoked and savage hostilities in future.

JAMES MONROE.

WASHINGTON, March 25, 1818.

The Message and accompanying documents were read, and two hundred additional copies thereof ordered to be printed for the use of the Senate.

## STAFF OF THE ARMY.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to reduce the staff of the Army, together with the amendments reported thereto by the Committee on Military Affairs; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and, on the question to concur in the following amendment agreed to as in Committee of the Whole:

SEC. 6. *And be it further enacted*, That after the first day of June, 1819, the present system of supplying the Army with rations be abolished, and that in lieu thereof there shall be appointed by the President, by and with the advice and consent of the Senate, one commissary general, with the rank, pay, and emoluments of colonel of ordnance, who shall, before entering on the duties of his office, give bond and security, in such sum as the President may direct, and as many assistants, to be taken from the subalterns of the line, as the service may require, who shall receive twenty dollars per month, in addition to their pay in the line, and who shall, before entering on the duties of their office, give bond and security, in such sums as the President may direct. The commissary general, and his assistants, shall perform such duties, in purchasing and issuing of rations to the Army of the United States, as the President may direct.

SEC. 7. *And be it further enacted*, That supplies for the Army, unless in particular and urgent cases

the Secretary of War should otherwise direct, shall be purchased by contract, to be made by the commissary general, on public notice, to be delivered on inspection, in the bulk, and at such places as shall be stipulated; which contract shall be made under such regulations as the Secretary of War may direct.

SEC. 8. *And be it further enacted*, That the President may make such alterations in the component parts of the ration as a due regard to the health and comfort of the Army, and economy may require.

SEC. 9. *And be it further enacted*, That the commissary general, and his assistants, shall not be concerned, directly or indirectly, in the purchase or sale, in trade or commerce, of any article entering into the composition of the ration, allowed to the troops in the service of the United States, except on account of the United States; nor shall such officer take and apply to his own use any gain or emolument for negotiating or transacting any business connected with the duties of his office, other than what is or may be allowed by law; and the commissary general, and his assistants, shall be subject to martial law.

SEC. 10. *And be it further enacted*, That all letters to and from the commissary general, which may relate to his office duties, shall be free from postage.

It was determined in the affirmative—yeas 25, nays 5, as follows:

YEAS—MRSRS. Barbour, Crittenden, Daggett, Eppes, Fromentin, Gaillard, Horsey, King, Lacock, Macon, Morril, Morrow, Noble, Otis, Ruggles, Sanford, Smith, Stokes, Tait, Talbot, Taylor, Troup, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—MRSRS. Burrill, Dickerson, Roberts, Tichenor, and Wilson.

The bill having been further amended, by adding a proviso limiting its duration, it was ordered to be engrossed, and read a third time.

THURSDAY, March 26.

MR. ROBERTS, from the Committee of Claims to whom was referred the petition of John Rudolph, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his petition and documents. The report and resolution were read.

MR. MORROW, from the Committee on Public Lands, to whom was referred the bill entitled "An act authorizing the election of a Delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory," reported the same without amendment.

MR. NOBLE, from the Committee on Pensions, to whom was recommitteed the report on the petition of Alexander Levie, reported the same amended, which was read and considered; and in concurrence therewith the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Richard Frisby; and, on motion by Mr. DAGGETT, the further consideration thereof was postponed until Tuesday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom



was referred the memorial of John Hall; and, on motion by Mr. DAGGETT, the further consideration thereof was postponed until Tuesday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Catharine M. Smith, administratrix of the estate of J. D. Smith.

On motion by Mr. KING to amend the resolution reported, by striking out the word "*not*," the Senate being equally divided, the PRESIDENT determined the question in the affirmative. So it was

*Resolved*, That the prayer of the petitioner ought to be granted.

On motion by Mr. KING, it was referred to the Committee of Claims, with instructions to report a bill accordingly.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Thomas Patten; and in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the report of the Committee of Commerce and Manufactures, to whom was referred the petition of Richard H. Wilcocks; and in concurrence therewith the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the motion of the 25th instant, for instructing the Committee on the Militia to inquire into the expediency of setting apart and appropriating the dividends which shall arise from the United States' shares in the Bank of the United States, to the manufacture of arms and equipments for arming and equipping the whole body of the militia of the United States; and agreed thereto.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to establish the Flag of the United States; and also a bill, entitled "An act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned;" in which bills they request the concurrence of the Senate.

The two bills last mentioned were read, and severally passed to the second reading.

The bill, entitled "An act for the relief of John Bate," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act authorizing John Taylor to be placed on the list of navy pensioners," was read the second time, and referred to the Committee on Pensions.

The bill, entitled "An act authorizing the legal representatives of William Daniel to file with the proper Register of the Land Office a Spanish patent for a tract of land lying in the State of Mississippi," was read the second time, and referred to the Committee on Public Lands.

The bill, entitled "An act confirming the claim of Tobias Rheams to a tract of land granted to him by the Spanish Government," was read the second time, and referred to the same committee.

The bill, entitled "An act for the relief of Nar-

cissus Broutin and others," was read the second time, and referred to the same committee.

The bill, entitled "An act for the relief of Daniel Burnet, Gibson Clark, and the legal representatives of Hubert Rowell," was read the second time, and referred to the same committee.

The resolution, directing the Secretary for the Department of State to prepare an index to the acts and resolutions of Congress after the close of every session, was read the second time, and considered as in Committee of the Whole; and no amendment having been made thereto, the PRESIDENT reported it to the House, and it passed to a third reading.

The bill, entitled "An act to extend the privilege of franking to vaccine agents of States or Territories," was read the second time, and referred to the Committee on the Post Office and Post Roads, to consider and report thereon.

The bill for the relief of Eli Hart, was read the second time.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the memorial of Shubael Canaus, of the town of Detroit, made a report, accompanied by a bill for the relief of Lewis and Antoine Dequinduc; and the report and bill were read, and the bill passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Michael Hogan; and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the compensation of certain judges of the courts of the United States; and the further consideration thereof was postponed until Thursday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to promote the progress of useful arts, and to repeal the acts heretofore made for that purpose; and, on motion by Mr. DAGGETT, the further consideration thereof was postponed until this day two weeks.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution for an amendment to the Constitution of the United States, in relation to internal improvements; and, on motion by Mr. DAGGETT, that the further consideration thereof be postponed until the first Monday in July next, it was determined in the affirmative—yeas 22, nays 9, as follows:

YEAS—Messrs. Burrill, Campbell, Crittenden, Daggett, Eppes, Gaillard, Horsey, Hunter, Lacock, Morrill, Morrow, Ruggles, Sanford, Storer, Talbot, Taylor, Troup, Van Dyke, Williams of Mississippi, Williams of Tennessee, and Wilson.

NAYS—Messrs. Barbour, Dickerson, Fromontin, Macon, Roberts, Smith, Stokes, Tait, and Tichenor.

The Senate resumed, as in Committee of the Whole, the consideration of the bill prescribing the mode of commencing, prosecuting and deciding controversies between two or more States; and the bill having been amended, on motion by

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*Increase of Salaries.*

SENATE.

Mr. EPPES, the further consideration thereof was postponed to, and made the order of the day for, Monday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of John G. Bogert; and no amendment having been made thereto, the PRESIDENT reported it to the House, and it was ordered to be engrossed and read a third time.

The bill to incorporate a fire insurance company in the City of Washington, was read a third time, and passed.

The bill to reduce the staff of the Army having been reported by the committee, correctly engrossed, was read a third time; and the blanks being filled,

*Resolved*, That this bill pass, and that the title thereof be, "An act regulating the staff of the Army."

The bill supplemental to an act, entitled "An act further to amend the charter of the City of Washington," having been reported by the committee correctly engrossed, on motion by Mr. DAGGETT, the further consideration thereof was postponed until Monday next.

The bill to authorize the State of Tennessee to issue grants and perfect titles on certain entries and locations of land therein described was read a third time; and it was

*Resolved*, That this bill pass, and that the title thereof be, "An act supplementary to the act, entitled 'An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated land within the same,' passed the eighteenth of April, one thousand eight hundred and six."

The bill to make valid certain acts of the justices of the peace in the District of Columbia was read a third time, and passed.

The bill to regulate the fees of public notaries in the county of Washington, in the District of Columbia, was read a third time, and passed.

#### INCREASE OF SALARIES.

The Senate resumed the consideration of the bill to increase the salaries of the Heads of Departments and of the Attorney General.

Various propositions were received and disposed of, respecting the increase proper to be made, the impropriety of discrimination in fixing the compensation of these officers, &c.

The bill was finally amended, so as to fix the salaries of the Secretaries of State and of the Treasury at \$6,500 each; the Secretaries of War, and of the Navy at \$6,000 each; that of the Attorney General at \$3,500; and that of the Postmaster General at \$4,000;—to commence on the 1st January last.

In this shape, the bill was ordered to be engrossed for a third reading.

FRIDAY, March 27.

Mr. WILSON, from the Committee on the Post Office and Post Roads, to whom was referred the bill, entitled "An act to extend the privilege of

franking to vaccine agents of States or Territories," reported the same with an amendment; which was read.

Mr. WILSON, from the same committee, who were instructed by a resolution of the 29th January, "to inquire into the expediency of providing for the security of passengers in stage-coaches in which the mail of the United States may be transported, against any danger arising from gross negligence of proprietors and drivers," made a report; which was read.

Mr. TROUP submitted the following motion for consideration:

*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of changing the post route between Milledgeville and Darien, so that the same may pass directly from Montgomery court-house to the town of Darien, by Tattall court-house.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Anthony Gale; and in concurrence therewith, resolved that the prayer of the petitioner ought not to be granted.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of John Rudolph; and, in concurrence therewith, it was resolved that the petitioner have leave to withdraw his petition and documents.

The bill for the relief of Louis and Antoine Dequinde, was read the second time, and considered as in Committee of the Whole; and no amendment having been made thereto, the PRESIDENT reported it to the House; and it was ordered to be engrossed, and read a third time.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of John Bate," reported the same without amendment.

Mr. WILLIAMS, of Mississippi, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of Daniel Burnet, Gibson Clark, and the legal representatives of Hubert Rowel," reported the same with an amendment, which was read.

Mr. WILLIAMS, of Mississippi, from the same committee, to whom was referred the bill, entitled "An act authorizing the legal representatives of William Daniel to file with the proper register of the land office a Spanish patent for a tract of land lying in the State of Mississippi," reported the same without amendment.

The bill entitled "An act to establish the flag of the United States," was read the second time, and referred to the Committee on Naval Affairs.

A bill entitled "An act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned," was read the second time, and referred to the Committee on the Judiciary.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the petition of Vassel White, made a report, accompanied by a resolution that the petitioner have leave to withdraw his petition. The report and resolution were read.

Mr. RUGGLES, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Catharine Smith; and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of the President, Directors, and Company of the Merchants' Bank of Newport, in Rhode Island; and no amendment having been made thereto, the PRESIDENT reported it to the House, and it was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Israel Thorndike; and, on motion by Mr. TALBOT, the further consideration thereof was postponed until the first Monday in July next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill declaring the consent of Congress to an act of the State of North Carolina for the relief of sick and disabled American seamen; and no amendment having been made thereto, the PRESIDENT reported it to the House, and it was ordered to be engrossed and read a third time.

The Senate then resumed the consideration of the following joint resolution:

*Resolved, &c.*, That the thanks of Congress be and they are hereby presented to Major General William Henry Harrison, and Isaac Shelby, late Governor of Kentucky, and through them to the officers and men under their command, for their gallantry and good conduct in defeating the combined British and Indian forces under Major General Proctor, on the Thames, in Upper Canada, on the fifth day of October, one thousand eight hundred and thirteen, capturing the entire British army with their baggage, camp equipage, and artillery; and that the President of the United States be requested to cause two gold medals to be struck emblematical of this triumph, and presented to General Harrison, and Isaac Shelby, late Governor of Kentucky.

The resolution was modified by striking out the word *entire*, in the twelfth line, and ordered to be engrossed for a third reading.

The bill for the relief of Michael Hogan was read a third time, and passed.

The bill for the relief of John G. Bogert was read a third time, and passed.

The bill to increase the salaries of certain officers of Government was read a third time, and passed.

The resolution directing the Secretary for the Department of State to prepare an index to the acts and resolutions of Congress after the close of every session, was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Abraham Byington;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it passed to a third reading.

Mr. WILSON presented the petition of Lemuel H. Osgood, a lieutenant in the Army of the United States, and late quartermaster in the 3d regiment of artillery, stating his loss of certain papers and vouchers at the battle of Oswego, by which he is prevented from settling his accounts,

and praying relief; and the petition was read, and referred to the Committee of Claims.

Mr. HORSEY submitted the following motion for consideration:

*Resolved*, That the Committee on Post Offices and Post Roads be instructed to inquire into the expediency of increasing the compensation of the postmaster at Georgetown, in the State of Delaware.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for the due execution of the laws of the United States within the State of Mississippi;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Eli Hart; and no amendment having been made thereto, the PRESIDENT reported it to the House; and, on the question, "Shall this bill be engrossed and read a third time?" it was determined in the negative.

The Senate adjourned to Monday next.

#### MONDAY, March 30.

Mr. DAGGETT, from the Committee on the District of Columbia, to whom was referred the bill, entitled "An act to provide for the erection of a court house, jail, and public offices within the county of Alexandria, in the District of Columbia," reported the same without amendment.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the bill, entitled "An act to alter the flag of the United States," reported the same without amendment.

On motion by Mr. CRITTENDEN, the Committee on the Judiciary, to whom was referred the bill, entitled "An act in addition to the 'Act for the punishment of certain crimes against the United States, and to repeal the acts therein described,'" were discharged from the further consideration thereof, and it was referred to the Committee on Foreign Relations.

Mr. ROBERTS, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Lemuel H. Osgood; and the bill was read, and passed to the second reading.

On motion by Mr. RUGGLES, the Committee on Pensions were instructed to inquire into the propriety of placing Adam Green, of Monroe county, Ohio, on the pension list.

The PRESIDENT communicated sundry documents, referred to in the report of the Secretary of State, of the 14th instant, accompanying the Message of the President of the United States of the same date, transmitted from the Department of State; which were read, and referred to the Committee on Foreign Relations.

The bill for the relief of Catharine M. Smith was read the second time.

The Senate resumed the consideration of the report of the Committee of Claims, to whom were referred the memorial of certain merchants of Portsmouth, in New Hampshire, and its vicin-

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*Proceedings.*

SENATE.

ity; the memorial of merchants, underwriters, and insurance companies, of Philadelphia; the petition and memorial of merchants and underwriters, citizens of the United States, of Charleston, South Carolina; and in concurrence therewith, resolved that the relief asked by the memorialists and petitioners ought not to be granted.

The Senate resumed the consideration of the report of the Committee of Commerce and Manufactures, to whom was referred the memorial of Thomas Tenant and George Stiles, of the city of Baltimore, merchants; and in concurrence therewith, resolved that the prayer of the memorial ought to be refused.

Mr. FROMENTIN presented the representation of the Legislature of the State of Louisiana, soliciting the demolition of Fort St. Charles, in New Orleans, the removal of other public establishments, and the sale of the lots on which they are situated; and the representation was read, and referred to the Committee on Public Lands.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with a resolution of the Senate relative to the pensioners of the United States, the sum annually paid to each, and the States or Territories in which the said pensioners are respectively paid, I now transmit a report from the Secretary of War, which, with documents marked A, and B, contain all the information required.

JAMES MONROE.

WASHINGTON, March 28, 1818.

The Message and accompanying report and documents were read.

The Senate resumed the consideration of the report of the Committee on Post Offices and Post Roads, who were instructed, by a resolution of the 29th January, "to inquire into the expediency of providing for the security of passengers in stage coaches in which the mail of the United States may be transported, against any dangers arising from gross negligence of proprietors and drivers;" and in concurrence therewith, the Committee were discharged from the further consideration thereof.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Vassal White; and in concurrence therewith, the petitioner had leave to withdraw his petition.

The Senate resumed the consideration of the motion of the 27th instant, for instructing the Committee on Post Offices and Post Roads to inquire into the expediency of changing the post route between Milledgeville and Darien; and agreed thereto.

The Senate resumed the consideration of the motion of the 27th instant, for instructing the Committee on Post Offices and Post Roads to inquire into the expediency of increasing the compensation of the postmaster at Georgetown, in the State of Delaware; and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill prescribing the mode of commencing, prosecuting, and decid-

ing controversies between two or more States; and the further consideration thereof was postponed until Wednesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution from the House of Representatives fixing the time for the adjournment of the first session of the Fifteenth Congress; and the same having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the resolution was read a third time as amended.

The resolution was read a third time, as amended, by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing the election of a Delegate from the Michigan Territory to the Congress of the United States, and extending the right of suffrage to the citizens of said Territory;" and on motion by Mr. MORROW, the further consideration thereof was postponed to the first Monday in July next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, "entitled 'An act for the relief of John Bate;'" and no amendment having been made thereto, the PRESIDENT reported it to the House; and it passed to a third reading; and it was read a third time, by unanimous consent, and passed.

The bill for the relief of the President, Directors, and Company of the Merchants' Bank at Newport, in Rhode Island, was read a third time, and passed.

The bill declaring the consent of Congress to an act of the State of North Carolina, for the relief of sick and disabled American seamen, was read a third time, and passed.

The resolution directing medals to be struck, and, together with the thanks of Congress, presented to Major General Harrison, and Governor Shelby, and for other purposes, were read a third time, and passed.

Mr. BARBOUR then, observing that the passage of this resolution had removed from his way the obstruction which had impeded heretofore the proposition he was about to submit, gave notice that he should, on to-morrow, ask leave to introduce a resolution for giving the thanks of Congress to Colonel Richard M. Johnson, for his gallantry and good conduct in charging the enemy on the Thames in Upper Canada on the 5th October, 1813.

The bill, entitled "An act for the relief of Abraham Byington," was read a third time, and passed.

The bill, entitled "An act to provide for the due execution of the laws of the United States within the State of Mississippi," was read a third time, and passed.

On motion by Mr. DAGGETT, the further consideration of the engrossed bill, supplemental to the act, entitled "An act further to amend the charter of the City of Washington," was postponed until to-morrow.

Mr. ROBERTS, from the Committee of Claims,

to whom was referred the petition of certain citizens, inhabitants of Knox county, in the State of Indiana, made a report, accompanied by a resolution, that the petitioners have leave to withdraw the petition and papers. The report and resolution were read.

Mr. BURRILL presented the petition of Smith P. Slocum, of Pawtuxet, in the State of Rhode Island, praying a pension; and the petition was read, and referred to the Committee on Pensions.

The bill for the relief of Louis and Antoine Dequinde, was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing the legal representatives of William Daniel to file with the proper register of the land office, a Spanish patent for a tract of land lying in the State of Mississippi;" and the further consideration thereof was postponed until Wednesday next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Daniel Burnet, Gibson Clark, and the legal representatives of Hubert Rowel," together with the amendment reported thereto by the Committee on Public Lands; and the amendment having been agreed to, the PRESIDENT reported the bill to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed and the bill was read a third time, as amended.

The bill from the other House extending the privilege of franking to the vaccine agents in the several States and Territories, was taken up; and on motion of Mr. CRITTENDEN, who thought such a provision unnecessary, a bad precedent, and subject in itself to abuse, the bill was postponed to the first of July next [rejected] by a vote of 17 to 12.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill limiting the time for claims being produced for lands authorized to be granted to the inhabitants of New Madrid; and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for the erection of a court-house, jail, and public offices, within the county of Alexandria, in the District of Columbia;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading; and it was read a third time by unanimous consent, and passed.

Previous to adjournment, the VICE PRESIDENT informed the Senate that he should not attend the Senate, after this day, for the remainder of the session, his private concerns requiring his attention.

The Senate adjourned.

TUESDAY, March 31.

The VICE PRESIDENT having retired from the Chair, on motion of Mr. KING, the Senate proceeded to the choice of a President *pro tempore*,

as the Constitution provides; and the honorable JOHN GAILLARD was elected.

On motion by Mr. GOLDSBOROUGH, the Secretary was directed to wait on the President of the United States, and acquaint him that the Senate have, in the absence of the Vice President, elected the honorable JOHN GAILLARD, President of the Senate *pro tempore*.

The Secretary was also directed to make a similar communication to the House of Representatives.

Mr. RUGGLES presented the petition of a number of citizens of the State of Ohio, representing the severity and injustice of a late regulation requiring all payment for public lands to be made in the notes of the Bank of the United States, and its branches, and praying relief; and the petition was read, and referred to the Committee on Finance.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill for the relief of Michael Jones; and the bill was read, and passed to the second reading.

On motion by Mr. NOBLE, the Committee on Pensions, to whom was referred the petition of Henrietta Ross, widow of Colonel George T. Ross, were discharged from the further consideration thereof.

Mr. GOLDSBOROUGH submitted the following motion for consideration:

*Resolved*, That, in addition to the harbors and waters ordered to be surveyed by a resolution of the 18th of this month, for the purpose that two suitable stations may be selected for the establishment of arsenal ports, the President of the United States be, and he hereby is requested, for the purpose aforesaid, to cause a survey to be made of the harbor of Annapolis and of the adjacent waters of the Severn.

On motion by Mr. SANFORD, the Committee on Commerce and Manufactures, to whom were referred the following petitions and memorials, to wit: the petition of sundry inhabitants of the county of Oneida, in the State of New York, cotton and woollen manufacturers; the petition of D. Lyman and others, a committee acting for and in behalf of the cotton and woollen manufacturers of Providence and its vicinity; the memorial of William Patterson, and others, manufacturers of woollen and cotton goods, in the city of Baltimore; the memorial of John Dow, and others, manufacturers of iron; and the memorial of Thomas Rotch, on the subject of woollen manufactures; were discharged from the further consideration thereof respectively.

On motion by Mr. TAIT, the Message from the President of the United States, of the 16th instant, transmitting, in obedience to a resolution of the Senate of the 3d of February last, a report from the Secretary of the Treasury respecting "the progress made under the act to provide for surveying the coast of the United States," was referred to the Committee on Naval Affairs.

Mr. WILLIAMS, of Mississippi, from the Committee on Public Lands, to whom was referred the bill, entitled "An act confirming the claim of Tobias Rheams, to a tract of land granted to

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him by the Spanish Government," reported the same with an amendment; which was read.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the petition of William P. Farrand, and others, importing merchants of Philadelphia, made a report accompanied by a resolution, that the prayer of the petitioners ought not to be granted. The report and resolution were read.

The amendment to the bill, entitled "An act for the relief of Daniel Burnet, Gibson Clark, and the legal representatives of Hubert Rowel," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The engrossed bill, supplemental to the act, entitled "An act further to amend the charter of the City of Washington," was read a third time; and, having been amended by unanimous consent, it was passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriation for the support of the Government for the year 1818;" the bill, entitled "An act concerning the Territory of Alabama;" and a resolution directing the printing and distribution of the act to provide for the surviving officers and soldiers of the Revolutionary Army; in which bills and resolution they request the concurrence of the Senate.

The two bills and the resolution last mentioned were read, and severally passed to the second reading.

The bill, entitled "An act making appropriation for the support of Government for the year 1818," was read the second time, by unanimous consent, and referred to the Committee on Finance.

The bill for the relief of Lemuel H. Osgood, was read the second time.

The bill limiting the time for claims being produced for lands authorized to be granted to the inhabitants of New Madrid, was read the second time, and considered as in Committee of the Whole, and, having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution which originated in the Senate, fixing the time for the adjournment of the first session of the fifteenth Congress; and, on motion by Mr. DAGGETT, the further consideration thereof was postponed until the first Monday in July next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the memorial of John Hall; and the further consideration thereof was postponed until Friday next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Richard Frisby; and, on motion by Mr. GOLDSBOROUGH, the further consideration thereof was postponed until the first Monday in July next.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of certain citizens, inhabitants of Knox county, in the State of Indiana; and, in concurrence therewith, the petitioners had leave to withdraw their petition and papers.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Catharine M. Smith; and no amendment having been made thereto, the PRESIDENT reported it to the House; and, on the question, "Shall this bill be engrossed and read a third time?" it was determined in the negative.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to alter the flag of the United States;" and no amendment having been made thereto, the PRESIDENT reported it to the House, and it passed to a third reading; and it was read a third time, by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Anderson;" and it was referred to the Committee of Claims.

#### HONORS TO COLONEL R. M. JOHNSON.

Agreeably to notice given, Mr. BARBOUR asked and obtained leave to bring in a resolution requesting the President of the United States, to present to Colonel Richard M. Johnson, a sword, as a testimony of the high sense entertained by Congress of the daring and distinguished valor displayed by himself and the regiment of volunteers under his command, in charging the enemy on the Thames, in Upper Canada, on the 5th October, 1813; and the resolution was read twice by unanimous consent, and considered as in Committee of the Whole, and having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, the resolution was ordered to be engrossed, and read a third time.

On introducing the proposition for causing a sword to be presented to Colonel R. M. Johnson—

Mr. BARBOUR said, in availing himself of the notice given on yesterday, of asking leave to introduce a resolution, whose object would be to present to Colonel Richard M. Johnson some testimonial of the high sense entertained by the nation of the distinguished services rendered by him on the 5th October, 1813, in the battle of the Thames, he considered himself bound to make a few remarks, disclosing the propriety of granting the leave asked.

As to the distinguished merit of Colonel Johnson, he presumed there could be no difference of opinion; the only objection that could possibly present itself would be, the time when the resolution was presented, or possibly the grade which Colonel Johnson held in the army. To remove these, if they exist, was all that devolved on him. As to the objection of time, it will at once be removed by reflecting on that which has just occurred—the vote of thanks which has been awarded in favor of General Harrison and Governor Shelby. It is not unknown that rumor, the result



of envy, or some other bad passion, had attempted to throw a shade around the character of that distinguished commander. He felt as he ought, and sought an investigation, to vindicate his character from the foul aspersions which had been cast upon it. It, after some delay, took place, and resulted in an honorable acquittal. In the mean time the venerable Shelby was, at his own request, withheld from the notice of the nation, as it regarded the distinguished services he had rendered—Shelby, a name which can never be mentioned without awakening, in every American bosom, emotions of gratitude. I see in this illustrious character a display of that love of country and chivalrous spirit which conceived and effected our independence, and, unabated by age, it reappeared to vindicate those rights, to the establishment of which, in his more youthful days, he had so essentially contributed; but, he is as generous as he is brave, and he refused to accept a tribute of respect, whose indirect consequence might have been a reflection on the Commander-in-chief, to whose zeal, patriotism, and capacity in conducting this campaign, he always bore a cheerful testimony. Colonel Johnson, influenced by the same sensibility, peremptorily refused to his friends the permission of bringing this subject before the Representatives of the people. I, however, will barely remark, in regard to the commanding General, that, with the regrets which the delay of justice to this citizen must necessarily create, will be mingled some consolation in the reflection, that his character has been entirely purified from the censure which had been improperly cast upon it; and that the meed now dispensed has the sanction of the deliberate judgment of the nation, unbiassed by passion or the false fire of the moment. He will now receive it with a grateful feeling, as the highest reward which freemen can give, or a freeman receive.

With regard to Colonel Johnson, it is due to him to say, this proposition is now made without his consent. Mr. B. however, who took a pride in calling him his friend, took the responsibility upon himself, because he thought it would be an act of consummate injustice, were no lasting memorial to be erected to the valor which he so signally displayed on the occasion alluded to. Another motive with Mr. B. was, a notification on the part of Colonel Johnson, of his retiring from public life. While he regretted this event as a serious loss to the public councils, he was perfectly satisfied that his reasons were sufficient to justify it. While upon this subject he would barely add, that he was satisfied it would not be deemed an exaggeration when he asserted, that no man in Congress had performed more service than Colonel Johnson. In addition to the just claims of his own particular constituents upon him, what part of the Union is it from which applications have not been made and cheerfully attended to by this patriotic citizen? So much for the first objection that might possibly be made, although he did not anticipate it. As to the second difficulty, that might exist in the opinion of some gentlemen, the grade of Colonel Johnson—if there

were no precedent applicable to this case, Mr. B. would have had no difficulty in fixing one. It is the attribute of all Governments to adapt their proceedings to the endless vicissitudes which human affairs continually present. The valor displayed by Colonel Johnson is unsurpassed by any example in the annals of mankind. But it is not now necessary to press this question, because you have a precedent in the case of McDonough and his associates, in the distinguished victory gained by them on Lake Champlain, over a British squadron, and some others. Mr. B. said, he should but ill represent the feelings of his friend, or his own, if, in asking for this tribute of respect, anything could be inferred from what is said or done, unfavorable to those patriotic officers holding grades between Colonel Johnson and the Commander-in-chief. It was but justice to them to say, that, had it been their good fortune, on the day of battle, to have had the post of honor, they would have acquired those laurels so dearly earned by Colonel Johnson. Generous as brave, so far from looking with an eye of envy upon this honorable tribute of gratitude, dispensed in behalf of this distinguished citizen, they will warmly participate in the fine feelings with which Colonel Johnson will receive this mark of his country's distinction.

As to the merit of Colonel Johnson to this evidence of our gratitude, Mr. B. said, he had already declared that upon this point there could be no difference of opinion. To expatiate upon it, would be unnecessary; yet he could not dismiss this subject without briefly enumerating some of the leading acts of his public life, so far at least as they connect themselves with the question under consideration.

Let it then be remembered that he was zealously in favor of the war. Not content with the distinguished place he held in the councils of the nation, he patriotically resolved to vindicate with his own arm those rights which he had so manfully asserted while voting for the declaration of war. He erects his standard and proclaims his purpose, and, although much was to have been expected from the patriotism, the zeal, the enterprise, and courage of Kentucky—a people Mr. B. delighted to honor, as, in addition to their merit, he considered them his own kindred, thousands of his near and highly respected relations being there—although, he said, much was to have been expected, yet, when we reflect upon the devotedness of those old and young, rich and poor, rallying around the standard of their country, we see a new subject of admiration.

In doing justice to those patriots, let it not be understood that any invidious distinction is intended to be made in their favor. Mr. B. said he well knew that illustrious examples of courage and patriotism were exhibited in other portions of the Union, and on all proper occasions he was prepared to lift his feeble voice to do them ample justice. But, to return to the patriotic volunteers, who embodied at the call of Colonel Johnson, displaying a spectacle as honorable to themselves as to Colonel Johnson—manifesting the

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high confidence they reposed in this their illustrious citizen—these brave men, leaving their homes and their domestic blessings, and, weighing the honor of their country and the defence of her rights, against the privations and hazards of war, willingly accepted them as an equivalent. Undeterred by the difficulties or dangers to which they are about to be exposed, they fearlessly commit themselves to the trackless desert, to the secret danger of the ambuscaded savage, or the more open perils of their less savage ally. A night of misfortune had shed its disastrous gloom over our affairs. It was given to Commodore Perry to turn back the tide of adversity upon the fountain from which it flowed. Lake Erie was reserved for the display of the brilliant superiority of American bravery and seamanship over our then haughty foe—achieving a victory, which, in the language of President Madison, will fill an early page in our naval annals, as having never been surpassed in lustre, however much it may have been in magnitude. The way having been opened, the commanding General and his veteran associate, with promptitude, availed themselves of the opportunity thus offered, to throw themselves in the enemy's country, and pursuing, with unanimity and with an unexampled rapidity, (of which pursuit Colonel Johnson led the van,) speedily overtook them. The battle is arrayed; the post of honor, for such he made it, is assigned Colonel Johnson. The enemy have the Thames on the left; a British regiment, seven hundred strong, has also a ravine on the right, beyond which was the celebrated Tecumseh, at the head of fifteen hundred savages—a force truly formidable. When we refer to the commander, of whom it may be said, unless his character has been greatly exaggerated, that, had he have been favored with the embellishments of civilized life, and the benefits of military experience, he would have been one of the most distinguished captains of the present eventful period; to which, when we superadd that his associates were acting under the impression of their being under the particular favor of Heaven, it well may be said that the force thus to be encountered was indeed formidable. This force, so placed, and so formidable to ordinary minds, presented nothing alarming to the mounted regiment. Colonel Johnson divides his regiment, say one thousand strong—one battalion placed under the command of Colonel James Johnson, who gave, in accepting his station under a younger brother, an honorable evidence of his patriotism; the other battalion, headed by himself, passed a defile, and placed itself on the right of the marsh. The bugle was to announce the readiness for attack. The sound is heard, and, mingled with the watchword, victory or death, floated along the line. The British force was overwhelmed in an instant; they threw down their arms, and on their knees supplicated mercy. Although there was a long account of unatoned-for blood, impiously shed by this united British and Indian force, and retaliation justified even to their entire extermination, yet, at the cry of mercy, the sword was imme-

diately sheathed, and the guilty survived. Far different was the conflict with the savage foe; there man was opposed to man, in single combat, rifle to rifle, and tomahawk to tomahawk; wounds and death were mutually dealt out. Colonel Johnson, early in the combat, received two severe wounds, attended with the loss of much blood. In this trying crisis an ordinary courage would have retired from the combat; on him it had a different effect. It seemed to impart to him new courage, which manifested itself in a prodigy of valor, which loses nothing in a comparison with the most splendid achievement recorded in the whole extent of "backward time." Calling around him twenty spirits, the bravest among the brave, he resolved, at their head, to precipitate himself on the fiercest part of the conflict, where Tecumseh in person commanded, and who was the soul of the battle. Of these daring spirits, composing the forlorn hope, one only escaped. The others were all cut down, some to rise no more; the remainder mangled by numerous wounds, of which the subject of the present resolution had his melancholy share. Bleeding, exhausted by effusion of blood, and alone, his fate seemed inevitable, when Tecumseh, cool and collected, approached with his unerring rifle and ruthless tomahawk. It pleased Providence to interpose. Amidst universal carnage, and in the teeth of approaching death, Colonel Johnson remained undismayed, and hurled at Tecumseh that death which had been prepared for him. This is the man and the services to which Mr. B. wished an honorable testimony to be erected, one more lasting than that which is found in evanescent papers of the day. If anything was necessary to be added in support of the high claims of this distinguished citizen upon the gratitude of his country, it would be found in the honorable notice taken of him by the commanding General, and repeated, in the most flattering manner, by President Madison, in communicating the result of the battle to Congress. But it is more than unnecessary to furnish any additional proofs. Wherever there is an American, the courage and services of Colonel Johnson are known and applauded. Mr. B. indulged a hope, bordering on confidence, that the measure he now proposed would receive the unanimous consent of the Senate, for in that unanimity its principal merit would consist.

#### WEDNESDAY, April 1.

Mr. NOBLE, from the Committee on Pensions, to whom was referred the petition of Ann Welsh, made a report unfavorable to the prayer of the petitioner; and the report was read.

Mr. LEAKE, from the committee to whom the subject was referred, reported a bill to alter and establish the boundary line between the State of Mississippi and the Alabama Territory; and the bill was read, and passed to the second reading.

On motion, by Mr. GOLDSBOROUGH, the Committee on the District of Columbia, to whom was referred the memorial of the Mayor, Aldermen,

and Common Council of the City of Washington, on the 10th of last month, were discharged from the further consideration thereof.

Mr. WILLIAMS, of Mississippi, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of Narcissus Broutin and others," reported the same with amendments; which were read.

The Senate resumed the consideration of the motion of the 31st ultimo, for requesting the President of the United States, for the purpose therein mentioned, to cause a survey to be made of the harbor of Annapolis, and of the adjacent waters of the Severn; and agreed thereto.

The resolution requesting the President of the United States to present a sword to Colonel Richard M. Johnson, was read a third time, and passed unanimously.

The bill for the relief of Michael Jones was read the second time.

The bill limiting the time for claims being produced for lands authorized to be granted to the inhabitants of New Madrid, was read a third time, and passed.

The bill, entitled "An act concerning the Territory of Alabama," was read the second time.

The resolution directing the printing and distribution of the act to provide for the surviving officers and soldiers of the Revolutionary Army, was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Lemuel H. Osgood; and, no amendment having been made thereto, the PRESIDENT reported it to the House; and it was ordered to be engrossed, and read a third time.

Mr. ROBERTS, from the committee to whom the subject was referred, reported a bill, in addition to "An act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, 1808," and to repeal certain parts of the same; and the bill was read, and passed to the second reading.

Mr. BARBOUR, from the Committee on Foreign Relations, reported a bill concerning navigation; and the bill was read, and passed to the second reading.

On motion, by Mr. BARBOUR, it was read the second time, by unanimous consent; and, on his motion, the further consideration thereof was postponed to, and made the order of the day for, Friday next.

Mr. BARBOUR, from the Committee on Foreign Relations, to whom was referred the bill, entitled "An act in addition to the 'Act for the punishment of certain crimes against the United States, and to repeal the acts therein described,'" reported the same with amendments; which were read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, prescribing the mode of commencing, prosecuting, and deciding, controversies between two or more States; and, on motion by Mr. CAMPBELL, the further consideration thereof was postponed until the

first Monday in May next, it was determined in the affirmative—yeas 16, nays 15, as follows:

YEAS—Messrs. Barbour, Campbell, Dickerson, Gailard, Goldsborough, Horsey, Macon, Otis, Ruggles, Sanford, Stokes, Tait, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Burrill, Crittenden, Daggett, Fromentin, Hunter, Johnson, King, Morril, Morrow, Noble, Roberts, Storer, Talbot, Taylor, and Wilson.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Samuel F. Hooker, made a report, accompanied by a bill for the relief of Samuel F. Hooker; and the report and bill were read, and the bill passed to the second reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Joseph Thorn;" a bill, entitled "An act making further appropriations for the construction of the Cumberland road; and a bill, entitled "An act fixing the time for the next meeting of Congress;" and also a resolution for the appointment of a joint committee, to take into consideration, and report what business is necessary to be acted upon before the close of the present session; in which bills and resolution they request the concurrence of the Senate.

The resolution last mentioned was read three times, by unanimous consent, and concurred in; and Messrs. DICKERSON, ROBERTS, and BURRILL, were appointed the committee.

The three bills last brought up for concurrence were read, and severally passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for confirming the claim of Tobias Rheams to a tract of land granted to him by the Spanish Government," together with the amendment reported thereto by the Committee on Public Lands; and the amendment having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendment being concurred in, was ordered to be engrossed, and the bill was read a third time as amended.

#### THURSDAY, April 2.

On motion by Mr. WILLIAMS, of Mississippi, the Committee on Public Lands were instructed to inquire into the expediency of authorizing the sale of the land attached to Fort Charlotte, in the town of Mobile.

Mr. JOHNSON presented the petition of the Mayor, Aldermen, and inhabitants of the city of New Orleans, praying a donation in land, to enable them to build an addition to the Charity Hospital, for the accommodation of strangers suffering under epidemic diseases, and a further donation for the use of the Board of Trustees of the College of New Orleans, in lieu of the house and lot granted to them by the Spanish Government, which has been by Congress converted into a court-house; and also praying that a lazaretto may be established and maintained at public ex-

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pense at the English Turn; and the petition was read, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Ann Welsh; and agreed thereto.

The bill to alter and establish the boundary line between the State of Mississippi and the Alabama Territory, was read the second time.

The bill for the relief of Samuel F. Hooker, was read the second time.

The bill entitled "An act for the relief of Joseph Thorn," was read the second time, and referred to the Committee on Commerce and Manufactures.

The bill entitled "An act making further appropriations for the construction of the Cumberland road," was read the second time, and referred to the committee to whom was referred so much of the Message of the President of the United States as relates to roads, inland navigation, and seminaries of learning, to consider and report thereon.

The bill entitled "An act fixing the time for the next meeting of Congress," was read the second time.

The amendment to the bill, entitled "An act confirming the claim of Tobias Rheams to a tract of land granted to him by the Spanish Government," was read a third time; and having been further amended by unanimous consent, the bill was passed with amendments.

The bill for the relief of Lemuel H. Osgood, was read a third time, and passed.

On motion by Mr. WILLIAMS, of Tennessee, the Committee on Military Affairs, to whom was referred the memorial of the officers and soldiers of the Rhode Island brigade; and, also, the petition of Joseph Hull, were discharged from the further consideration thereof respectively.

On motion by Mr. BURRILL, leave was given to withdraw the memorial of the officers and soldiers of the Rhode Island brigade, their heirs and representatives.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Michael Jones; and the blank having been filled with "one thousand five hundred," the PRESIDENT reported the bill to the House accordingly; and the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing the legal representatives of William Daniel to file with the proper register of the land office a Spanish patent for a tract of land lying in the State of Mississippi; and on motion by Mr. BURRILL, the further consideration thereof was postponed until the first Monday in July next.

A message from the House of Representatives informed the Senate that the House have passed the bill, entitled "An act to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land

Office, and for designating the western boundary line of the Virginia military tract," with amendments; in which they request the concurrence of the Senate. They have also passed a bill, entitled "An act for the relief of the legal representatives of George Pearson;" a bill, entitled "An act to provide for the publication of the Laws of the United States, and for other purposes;" and, also, a bill, entitled "An act to change the name of the District of Erie, in the State of Ohio;" in which bills they request the concurrence of the Senate.

The three bills last mentioned were read, and severally passed to the second reading.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to extend the time for locating Virginia land warrants, and returning surveys thereon to the General Land Office, and for designating the western boundary line of the Virginia military tract; and on motion by Mr. MORROW, they were referred to the Committee on Public Lands.

Mr. ROBERTS, from the Committee of Claims, to whom the subject was referred, reported a bill for the relief of Aquila Giles; and the bill was read, and passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the compensation of certain judges of the courts of the United States; and the bill having been amended, on motion by Mr. WILLIAMS, of Mississippi, that further consideration thereof be postponed until the first Monday in July next, it was determined in the negative—yeas 13, nays 18, as follows:

YEAS—Messrs. Dickerson, Lacock, Macon, Morrill, Morrow, Noble, Roberts, Ruggles, Sanford, Storer, Talbot, Williams of Mississippi, and Wilson.

NAYS—Messrs. Burrill, Crittenden, Daggett, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Otis, Smith, Stokes, Tait, Taylor, Tichenor, Van Dyke, and Williams of Tennessee.

#### FRIDAY, April 3.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the petition of Francis Henderson, made a report, accompanied by a bill for the relief of Francis Henderson; and the report and bill were read, and the bill passed to the second reading.

The bill for the relief of Aquila Giles was read the second time.

The bill entitled "An act for the relief of the legal representatives of George Pearson," was read the second time, and referred to the Committee on Public Lands.

The bill entitled "An act to provide for the publication of the Laws of the United States, and for other purposes," was read the second time, and referred to the Committee on the Judiciary.

The bill entitled "An act to change the name of the District of Erie, in the State of Ohio," was read the second time, and referred to the Committee on Commerce and Manufactures.

The Senate resumed the consideration of the report of the Committee on Finance, to whom was referred the petition of William P. Farrand and others, importing merchants of Philadelphia; and on motion by Mr. ROBERTS, the further consideration thereof was postponed until the first Monday in May next.

The Senate resumed the consideration of the report of the Committee of Claims, on the memorial of John Hall, and the further consideration thereof was postponed until Monday next.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the bill, entitled "An act to authorize the payment of certain certificates, reported the same without amendment.

Mr. CAMPBELL, from the same committee, to whom was referred the bill, entitled "An act making appropriation for the support of Government for the year 1818," reported the same with amendments; which were read and considered as in Committee; and having been agreed to, the PRESIDENT reported the bill to the House accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill was read a third time as amended.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Sarah Dewees, relict and widow of William Dewees, deceased, and the heirs and legal representatives of the said William Dewees;" a bill, entitled "An act for the relief of Gad Worthington;" a bill, entitled "An act for the relief of the houses of Thomas and John Clifford, Elisha Fisher, and Company; Thomas Clifford and Son, and Thos. Clifford, of Philadelphia, and Charles Wigram of Baltimore;" a bill, entitled "An act for the relief of John Rodgers;" and a bill, entitled "An act for the relief of certain friendly Creek Indians, of the mixed blood;" in which bill they request the concurrence of the Senate. They have also passed a bill, which originated in the Senate, to provide for paying to the State of Indiana, three per cent. of the net proceeds arising from the sales of the United States' lands within the same," with an amendment; in which they request the concurrence of the Senate.

The Senate proceeded to consider the amendment of the House of Representatives to the bill last mentioned; and the further consideration thereof was postponed until to-morrow.

Mr. TARR, from the Committee on Naval Affairs, reported a bill to repeal part of the act, entitled "An act to provide for surveying the coasts of the United States;" and the bill was read, and passed to the second reading.

Mr. MORROW, from the Committee on Public Lands, to whom the subject was referred, reported a bill, confirming Anthony Cavalier and Peter Petit in their claim to a tract of land; and the bill was twice read by unanimous consent.

Mr. MORROW, from the same committee, reported a bill, authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile; and the bill was read, and passed to the second reading.

The bill for the relief of Michael Jones was read a third time, and passed.

The bill, in addition to "An act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1808," and to repeal certain parts of the same, was read the second time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the compensation of certain judges of the courts of the United States, and the further consideration thereof was postponed to, and made the order of the day for, to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Narcissus Broutin and others," together with the amendments reported thereto by the Committee on Public Lands; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed and the bill was read a third time as amended.

Mr. BARBOUR gave notice, that he should ask leave to-morrow to bring in a resolution authorizing a subscription for the edition of "Statistical Annals, embracing views of the population, commerce, navigation, fisheries, public lands, post office establishment, revenues, mint, military and naval establishments, expenditures, public debt, and sinking fund of the United States."

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act concerning the Territory of Alabama;" and no amendment having been made thereto, the PRESIDENT reported it to the House; and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution directing the printing and distribution of the act to provide for the surviving officers and soldiers of the Revolutionary Army; and, on motion by Mr. TALBOT, the further consideration thereof was postponed until the first Monday in July next.

Mr. KING submitted the following motion for consideration:

*Resolved*, That the Secretary of the Treasury, do report to the Senate, the sum of the funded debt of the United States, bearing an interest of seven, six, and three per cent.; distinguishing the amount of each, that has been paid by the subscribers towards the capital of the Bank of the United States, distinguishing also the sums of the respective species of funded debt paid on account of the several instalments to the said bank. Stating the sums and species of funded debt sold by the bank; how much thereof was purchased or redeemed by the United States, and how much has been sold without the United States.

#### NAVIGATION BILL.

The Senate resumed the consideration of the bill concerning navigation, reported by the Committee of Foreign Relations on Wednesday.

[The first section provides, that from and after the 30th of September next, the ports of the United States shall be and remain closed against every

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vessel owned wholly or in part by a subject or subjects of His Britannic Majesty, coming or arriving from any port or place in a colony or territory of His Britannic Majesty, that is or shall be, by the ordinary laws of navigation and trade, closed against vessels owned by citizens of the United States; and every such vessel, so excluded from the ports of the United States, that shall enter, or attempt to enter the same, in violation of this act, shall, with her tackle, apparel, and furniture, together with the cargo on board such vessel, be forfeited to the United States.

The 2d section provides, substantially, that any British vessel entering our ports, shall, on her departure, if laden with the productions of the United States, give bonds not to land her cargo at any of the British ports prohibited in the first section, and to forfeit vessel, tackle, &c., if she attempts to sail without so giving bond.

The 3d section enacts the manner of recovering the penalties, accounting for them, &c.]

Mr. BARBOUR, of Virginia, said, as the organ of the committee who reported the bill, it was expected of him by the Senate that he should disclose the views of the committee on this interesting subject.

It certainly behooved the Senate to give this subject its most serious attention, and to act only upon the most mature deliberation; for remember, when once adopted, it must be adhered to. To recede, would be to insure an endless duration to the serious evils of which we complain, and, what is still of more consequence, it must be attended with a diminution of character. Any policy, adopted by the unanimous consent of the nation, founded in justice and wisdom, and sustained by perseverance, must finally be felt and yielded to by any and every nation on which it operates. The object of the bill under consideration, is to relieve from the effects of measures adopted by Great Britain in relation to our commercial intercourse with her North American colonies and West Indies; measures exclusively against us, as injurious to our navigating interest as they are offensive to our dignity. The invidious policy of which we complain, and which is attended with such unpleasant effects, may be summed up in a few words. She has shut her ports in the possessions formerly alluded to, against American vessels and American property. Not a cock-boat, not an atom of anything that is American, does she permit to enter, while she modestly insists to bring everything that she pleases from these possessions to the United States, and to purchase, and exclusively to carry the produce and manufactures of the United States in return; that is, she insists upon, and we have been tame enough to submit to it, to enjoy exclusively the whole of this valuable intercourse.

The evil has been of long standing; it commenced upon our becoming an independent people. She was not generous enough to forget that we had been enemies, nor wise enough to profit by a liberal policy. She would have found in the same language, the same habits, the same feelings; and in the kind affections inseparably

attending two people of a common origin, except when repressed by injustice or oppression, she would have found in these circumstances sure guarantees to an uninterrupted, friendly, and, to her, highly beneficial intercourse. But other counsels prevailed, and displayed a new proof of the mortifying truth that small, indeed, is the portion of wisdom that directs the government of human affairs. Hence, the moment she acknowledged our independence, she immediately denounced against the United States all the rigor of her colonial system—departing from it only in such parts as would promote her interest, and render it more injurious and humiliating to us. She superciliously rejected all offers at negotiation. The United States, without a common head, and pursuing among themselves an insulated, and frequently a selfish and an unwise policy, became the foot-balls of Great Britain, who, watching, as she always does, with a sleepless eye, whatever is to affect her commerce, seized instantly upon her defenceless prey, and pushed her exclusive system to the uttermost of endurance. In this spirit, instead of being content with enforcing towards us the real colonial system, which was, that the trade should be exclusive through and with the mother country, she permitted the produce of her dependencies to be brought directly to this country, and the produce of this country to be carried back directly to them, but both operations to be effected exclusively by British shipping, to the consequent exclusion of the American shipping from the transportation of the produce even of America. So injurious were the effects resulting from our commercial intercourse, and so entirely unable were the United States to counteract these effects in their then disjointed condition, that our sanguine anticipations from the successful result of our Revolution, began fast to dissipate, and no little solicitude to be experienced in regard to the future. This state of things produced a convention of the States, and finally resulted in our present happy Constitution. I am authorized to say, from the best authority, that it is to this cause chiefly, if not entirely, that we are indebted for this greatest blessing of Heaven. In looking through the history of mankind, and tracing the causes which contribute to the rise and downfall of nations, it frequently becomes a subject of curious speculation, when we see the most propitious results flowing from apparently injurious causes and the worst passions of mankind converted into the means of furthering some beneficent purpose of Providence. Little did the statesman of Britain think, when indulging his thirst for cupidity or revenge, that he was to become the involuntary benefactor of America, by essentially contributing to the order of things which now exists, and which, under Providence, will insure us an endless succession of power, of prosperity, and of happiness.

The new Government being organized, it turned its attention to the particular subject intrusted to its care. Unfortunately, however, other objects, both foreign and domestic, interposed before its



deliberations ripened into action. Europe was agitated by a convulsion the most important in the annals of the world, whether we regard its duration, its extent, or its effects. During this troubled state of the world, the policy now under consideration, engaged the attention of Congress. The result of the effort at that time is known to the Senate—the causes leading thereto lie out of the proper sphere of the present discussion. Mr. Jay was sent to England—he negotiated a treaty—so much of it as relates to the trade in question, eventuated in nothing; but such was the condition of the nations of Europe, that we enjoyed, from the necessities of England, what we had a right to expect from her justice. America became the carrier of the world, and her commerce, her shipping, and her wealth, increased in the most astonishing ratio, till at length America, in her turn, felt the effects of war, and its frequent privations. Peace was no sooner established, than Great Britain resorted to her colonial system, with all its abuse. The more intolerable, as it is exclusively directed against us, inasmuch as she indulges to the vessels of other nations an intercourse withheld from us; a course aggravated by the consideration that she stands alone in this policy, American vessels being admitted into the French, Spanish, Dutch, and Swedish colonies. This course, so injurious to our interest, and so offensive to a just pride, claimed the immediate attention of the Government, and efforts were made to obtain redress by a treaty; the result is known. Mr. B. begged leave to read so much of President Madison's Message at the last session of Congress, as regards this subject. Here you perceive the door of negotiation is closed; all hope of redress in that way is desperate, and he calls upon Congress to interpose. Independently of the respect due to the recommendation of a President of the United States, there were other considerations which would give a weight to this opinion of Mr. Madison. When it is recollected, that he devoted the whole of his most useful life to his country, with motives always pure, and with a judgment but little liable to err, guided as it was by a superior genius; when such a man, from the commencement of the Government, down to the moment of his quitting public life, with the benefit of thirty years' observation and experience, invariably entertains the same opinion, and, in his last solemn appeal to the nation, strongly inculcates the propriety of the measure now under consideration, Mr. B. was justifiable in saying a recommendation thus sustained would receive from the Senate a degree of consideration far beyond that arising from mere official respect. In addition to this, we have been advised by President Monroe of his fruitless attempts to procure redress by negotiation, and he also submits to Congress the propriety of interposing by regulations, whose effects will produce that which he has in vain sought to obtain by negotiation.

This question, then, solemnly addresses itself to the patriotism, to the wisdom, and to the dignity of the Senate. Will you patiently stand by and fold your arms together, in apathetic indifference,

while Great Britain pursues a policy towards us as unjust as it is injurious, or will you, by becoming firmness, taking justice as your guide, and equality as your object, adopt a measure, whose effect will be to retort the invidious policy on its first parent, and enable us to address her in a quarter where she is never deaf to her interest?

Mr. B. said, there was a general rule in regard to intercourse with all nations he was willing to adopt, or enforce, as a fundamental principle of our policy—perfect reciprocity; to mete out the same measure to each that was dispensed to us. Who can or will object to this rule? A different one supposes an inferiority. But every American Senator would scout such an assertion. Sir, the same rules are applicable to the intercourse of nations as to that of individuals. Where is the man worthy of the name, who would not indignantly reject a proposed intercourse with another, on the degrading terms that he should not visit his house but under circumstances of degradation, while the other should claim access when, and how, and upon what terms he himself dictated? Nations are but aggregations of men, and Mr. B. could perceive no reason why they should make, in their aggregate capacity, a surrender of that attribute, self-respect, so essential to the genuine dignity of man. Upon this ground alone, with due deference to the opinion of others, it seemed to him Congress were bound to interpose; but he should but feebly discharge his duty, were he to leave the question here. For the sake of method and perspicuity, however, Mr. B. proposed further to discuss the subject, under three heads:

1. The extensive and injurious effects of the policy complained of, as it regards our shipping interest.

2. He would undertake to show that redress was attainable, and would be produced by the proposed measure.

3. That entire prohibition of all intercourse was better, than seeking to effect it by heavy duties.

Before he commenced the proposed investigation, he would make a preliminary remark. He took it for granted, that it was the settled policy of the nation to become a naval power. Perhaps there is no one question upon which there is more unanimity. From one extremity of the nation to the other there is but one sentiment, but one wish, everywhere expressed, and that is, that it may go on to increase; and in fond anticipation, judging from the lustre of its achievements during the war, they see, in its increase, an increase corresponding with the resources of the nation—the guarantee of our safety and glory. But these fond hopes are all illusory, unless wisdom directs our councils. Vain, foolish, your resolutions to build ships, unless you protect your navigation. It is not to the superior fixtures of your vessels, or the ampleness of their supplies, you are to look for victory, but to the number and experience of your sailors. If you suffer the Power who looks with jealousy on your rising commerce, and with envy on the glory of your navy, to exclude you from the participation of those advantages which of right, as being derived

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from nature, belong to you, abandon all thoughts of an efficient marine, and withdraw from the ocean. But, Mr. B. would proceed to show the effects of the policy complained of. These will be classed under two heads; first, as it regards the tonnage employed directly between the United States and the colonies of Great Britain; and, second, the indirect effect on the intercourse between this country and the European possessions of Great Britain.

## 1. The direct trade of the colonies.

The amount of tonnage employed in this trade may be stated as equal to 138,000, round numbers. This result is arrived at by a perusal of a communication from a very intelligent citizen of the United States, who resided in the West Indies, and who has been intimately acquainted with the trade for thirty-five years; and, further, his statement is said to be founded on an official document. He predicates his statement upon the calculation that Jamaica is equal in its trade and productions to all the West India possessions of Great Britain beside. From the 30th of September, 1803, to the 30th of September, 1804, 69,525 tons of shipping entered Jamaica alone from America, but Jamaica only employs one-half; hence, 138,000 tons may be presumed to have sailed from America to all the West Indies, to man which, taking as an estimate five men to a 100 tons, requires upwards of 6,000 seamen. From any participation in this we are entirely excluded. Did this result from the superior advantages which Great Britain naturally possessed over us, or from any regulation she had adopted, founded in justice, while it might be a subject of regret, it could not be of complaint? But such is not the fact. It is by an assumption on her part, and a tame surrender on ours, of that which has been awarded us by nature herself. But the loss of tonnage, and the consequent non-employment of seamen, are not limited to the direct intercourse merely, but materially affect what Mr. B. proposed as the second view of this subject, the navigation between the United States and the European possessions of Great Britain. This proposition will be most easily illustrated by an example: a British ship arrives in the United States, direct from Great Britain, with a cargo, unloads in one of our ports, takes in a cargo of lumber, goes to the West Indies, delivers it, and, finding freight scarce, she sails to New Orleans, procures a load of tobacco, cotton, &c., and proceeds to Great Britain; here two or three of the freights belongs of right to the shipping of America, as being the growth of America. Yet British ships, from the policy complained of, monopolize the whole. An American vessel going from a Northern or an Eastern port with a view to take a cargo for Europe, goes in ballast to New Orleans. Even from the colonies in North America vessels are daily entering our ports, laden with plaster, fish, and the product of their colonies; these are commuted in some ports of the United States for such cargoes as are wanted in the West Indies, whither they sell or exchange their cargo, and procure a freight in the produce

of the islands. Again, British ships engaged in the West India trade, frequently leave home with cargoes of little value, such as crates of earthenware, coal, salt, come to the United States, procure cargoes for the West Indies, and return home freighted with the productions of the islands; while the American trade is limited to a direct trade only with the possessions of Great Britain in Europe. They return, generally, in ballast. The bulky supplies furnished by America require, perhaps, one hundred vessels to be transported to Great Britain, while what they receive in return (the costly fabrics of British manufacture) may be brought back in some two or three. That the result of this unequal contest should be unfavorable, cannot be matter of surprise. That it has not been more so, is accounted for only by the industry and enterprise of our seafaring people. Your ports and harbors, however, exhibit melancholy proofs of the decline of our shipping interest, and it is impossible to contemplate the spectacle without experiencing sincere regret, as well for the misfortune of the individuals whose hopes of independence have been the victim of this unjust policy, as for the alarming consequences in a national point of view; the drying up the spring from which flows our maritime strength.

The second point of view in which Mr. B. proposed to discuss this subject, is redress within our hands; and is it likely to result from the proposed measure?

To understand this question correctly, it will be necessary to advert to the amount of the imports from the dependencies in question, as also the exports; the constituent parts of both, and the capacity of the United States to supply herself elsewhere, with those productions, which from habit have become somewhat essential to comfort.

1. As to imports: he felt it necessary to state that the facts he was about to employ had been furnished him by an honorable member of the other House, (Mr. SEYBERT,) who had extracted them from a statistical work written by himself, founded on official documents, with a view of which Mr. B. had been favored; and he owed it to that gentleman to state, that he considered it by far the most valuable compilation of the kind he had ever seen, which ought, by some means, to become public property; and he should consider himself bound, if he could discover that such a motion would be favorably received, to lay a resolution on the table to effect that object; but, to proceed, he begged leave to exhibit the following document:

*A Statement showing the quantities of the Merchandise enumerated, which were annually imported into and exported from the U. States, calculated on the average of the ten years, from 1803 to 1812, both inclusive.*

ARTICLES.				Quan'ty annually imported.	Quantity annually exported.
Rum,	-	-	-	gallons	679,322
Molasses	-	-	-	do.	34,539
Coffee	-	-	-	pounds	23,963,961
Sugar	-	-	-	do.	66,243,661

*A Statement showing the quantities of Rum, Molasses, Coffee, and Sugar, annually imported into the United States from the countries enumerated, calculated on the average of the three years from 1802 to 1804, both inclusive.*

COUNTRIES.	Rum, estimated at 70 cts.	Molasses, estimated at 50 cts.	Coffee, estimated at 22½ cts.	Sugar, estimated at 12½ cts.
	<i>Gallons.</i>	<i>Gallons.</i>	<i>Pounds.</i>	<i>Pounds.</i>
British West Indies	4,069,550	604,994	1,895,809	12,567,434
Swedish do.	76,256	18,307	359,792	2,964,760
Danish do.	1,198,860	67,630	911,322	11,366,529
Dutch do.	400,590	625,111	3,363,998	11,671,078
French do.	648,318	2,693,928	18,044,723	29,473,665
Spanish do.	74,495	2,414,011	2,029,865	20,192,574
Value in dollars -	2,800,000	300,000	4,500,000	1,500,000

*A Statement showing the value of the American produce which was annually exported from the United States to the countries enumerated, for the years 1802, 1803, and 1804.*

COUNTRIES.	VALUE.		
	1802.	1803.	1804.
British West Indies	\$5,624,647	\$6,315,667	\$5,473,218
Swedish do.	209,547	400,848	209,707
Danish do.	645,695	1,081,618	1,523,106
Dutch do.	1,323,092	1,600,667	454,645
French do.	3,016,463	1,742,368	2,876,351
Spanish do.	563,261	1,725,682	2,806,112

By which it appears that, except in the article of rum, the entire interdiction of the colonial trade with the British dependencies would affect only the carrying trade of the United States under any circumstances; but he should presently advert to the state of the trade of a later period, by which it would be seen that, upon the restoration of a general peace, each nation had aspired to its own share, and, in consequence, that of the United States had proportionably diminished. But, at this stage of investigation, it appears from the table furnished, that the United States imported 7,500,000 gallons of rum, exporting only 600,000, left to be consumed in the United States, say 7,000,000, of which 4,000,000 came from the possessions of Great Britain; to which, when we add the vast quantity made in America from molasses, together with the large quantities of ardent spirits distilled from native productions, the mind is filled with amazement and regret at the consumption of this most pernicious article in the United States. If this measure were to be attended with the entire exclusion of this baneful spirit, the man who duly appreciates the morals and health and character of his country, would find an ample indemnity; but, putting considerations of this kind apart, what would be the result in a commercial point of view? If our people will use ardent spirits, the breadstuffs now sent to purchase this article would immediately find a market at home, by being converted into a spirit of a less pernicious kind; so that, in regard to this article, it can produce, were it to

be entirely shut out, no serious effect upon our commercial prosperity. The next article, viz., molasses, it will be seen that the colonies of Great Britain produce only 600,000, about one-twelfth part of what we consume; but a large portion of which is manufactured into rum, of which he had already said enough, and proving, he hoped, that whatever deficiency may be produced in that article will be a national benefit. We see, also, that of the article of coffee the United States imported 40,000,000 lbs., only 2,000,000 of which came from the British colonies. But, by the document so often alluded to, it is seen that we exported 24,000,000, leaving to be consumed in the United States only 16,000,000; hence the quantity from the British possessions would attach itself only to the quantity exported. Of sugar we imported 120,000,000, and exported 66,000,000; 12,000,000 of this came from the British possessions. But as we had for exportation 66,000,000, the entire exclusion of that article from the British possessions would act only on the quantity to be exported. Mr. B. said he was thus full on this particular branch of the inquiry, as he had heard an opinion expressed by some, that possibly our prohibitory system might affect the price of those articles, which our habits caused us to enumerate, if not among the necessities, at least among the comforts of life. On the contrary, the facts referred to clearly evince that we are entirely independent of Great Britain; that supplies, far beyond our wants, may be procured elsewhere, and the only diminution will be in the export trade; the extent of which, compared to the tonnage put out of employment by the system of which we complain, is so utterly insignificant as to be undeserving of notice. In addition, it will be a sacrifice of a small portion of shipping interest of one kind, to procure an infinitely greater advantage to another; of which all may participate.

The table marked E (that marked D being intentionally omitted, as embracing a portion of time during the war) discloses the great diminution of the exports of America since the restoration of peace, when, as stated before, each nation had been endeavoring, and had in part succeeded, to enjoy its just proportion of shipping interest. The quantity of rum imported in 1816, was 4,200,000; 2,500,000 of which were imported elsewhere than from the dependencies of Great Britain. 8,000,000 gallons of molasses, 7,500,000 of which are subject to the same remark. 25,000,000 lbs. of coffee were imported, 23,000,000 of which came from other regions than the British islands. 48,000,000 lbs. of sugar were imported; 42,500,000 of which are subject to the same remark. Hence it seems that, in the year 1816, we imported from the possessions of Great Britain 1,700,000 gallons rum, 500,000 gallons molasses, 2,000,000 lbs. coffee, and only 7,500,000 lbs. sugar; and yet, with our own supplies of that article, we were able to export, say from 9,000,000 to 10,000,000 lbs., 5,000,000 more than were wanting for home consumption, if that from Great Britain had been totally excluded. We

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also see, notwithstanding our increased population, that our importation of rum was minus by 3,000,000 gallons than for any year, on an average, from 1802 to 1812, inclusive. The deficiency must have been supplied by spirits distilled from American productions.

Mr. B. feared, however, he wearied the patience of the Senate with these details, and would proceed, therefore, to the exports from this country to the dependencies in question. It seems that these may be estimated at, say 6,000,000; and the question to be discussed is, what will be the influence of this measure upon the price of the article thus exported. If it be necessary to admit that Great Britain can do and will do without them, then it would be in vain to disguise the fact, that the price of these articles would diminish, and in so far the value impaired, and, by consequence, the agricultural interest injured. But if it were to be revealed from Heaven, that this would be the consequence, still he hoped that agriculturists were prepared, when a just regard to the interests and to the character of their country required it, to make the sacrifice which the emergency called for. He would here take the liberty to state, that he was himself a farmer; that he derived not a cent from any source except what he dug from the earth; that it had not been his fortune to amass money by embarking in any paper speculation whatever; he represented farmers and agriculturists; his interest was like theirs, and he therefore presumed he spoke their sentiments, when he proclaimed his readiness to look across any sacrifice of their interest, when the welfare and dignity of the whole people of the United States demanded it.

It is but due to frankness to say, that they consider the sacrifices heretofore made by them, with a view to preserve our maritime rights, was but illy reciprocated by those whose more immediate interest was concerned. He made no allusion to this subject with a view to awaken unpleasant emotions, nor to open wounds which had already bled enough; for his ardent wish was, that oblivion would forever erase from our history the page which forms a record of these transactions; it was mentioned solely with a view to announce to all whom it might concern, that the same love of country and the same sensibility to its rights continued to form the public sentiment, and that they hold everything as comparatively insignificant when weighed against these high considerations. He had mentioned it also for the further object of warning those who, under the influence, real or pretended, of a jealousy that agriculture was hostile to commerce; a jealousy the less reasonable, as the agriculturists had been at least as prompt to encounter sacrifices as any other portion of the community, of warning such, if at any future time a cry of that kind should be attempted, to look at the history of this measure, in which they would see a security against their sickly apprehensions. The world will see this measure originating from no particular quarter, party, or interest—its foundation is as broad as

the empire. In discussing its probable duration, no hopes need be indulged of division. The public sentiment is as undivided as its true interests are indivisible. Shades of difference may indeed exist as to the manner or effect of interposing; but all agree as to the injustice of the policy complained of. But is it true that a sacrifice, to any extent, is to be expected? He thought not; and, for himself, he claimed less credit for the amount of the sacrifice, which, as an agriculturist, he was called on to make, than for the promptitude with which he was prepared to encounter it.

Mr. B., in stating that he thought the sacrifice to agriculture would be trifling, went upon the ground that people must eat—and, if food be for sale, and famine has the means of purchase, it will buy. This, then, presents at once, the fair question—can Great Britain get her supplies of bread, meat, and those things essentially connected with the prosperity, if not the existence, of the colonial possessions? The conversion of the islands from sugar-growing to breadstuff-growing plantations is thrown out of the question—the interest of Great Britain is a sufficient security, that that will not be attempted. From whence, then, is she to get her supplies, if not from the United States? Her North American colonies, except Canada, are themselves importers of breadstuffs; and Canada, at least for the present, raises but little if any, more than is necessary for her own consumption. Great Britain herself has been indebted, for several years, almost for her existence to the supplies of breadstuffs imported from this country. And with all that she could procure, famine has pressed so hard upon her subjects as to drive them into into tumult and disorder. The Peninsula is also indebted to us for her support in part. France, in happier times, might possibly have an excess—in her present calamitous condition, she too feeds upon the over-abundant granary of America. Mr. B. held it therefore as out of the question, to say, these dependencies can be supplied anywhere but from America. If this be true as to breadstuffs, it is no less so as to lumber. She may, indeed, procure some scanty supplies of this article from her North American colonies, but not sufficient to produce any sensible relief, if she be excluded from the United States. The communication before alluded to, from which he had taken many of the facts already stated, presents this subject in a strong light; but, as it was in every gentleman's possession, he would not, as he had enough to do beside, pursue this view of the subject any further, but content himself with referring the Senate to the document. But where can Nova Scotia and New Brunswick get the means of payment, if the supplies are procurable elsewhere than in America. They have nothing but those to sell—nobody buys their plaster but the people of the United States. That they should quarrel with us, is laughable enough, if it did not betray a feeling towards us calculated to excite regret. It is readily admitted, that when a man begs bread, and you give him a stone, you having treated him unkindly, he may be offended; but when we have given bread for stone, it is en-

tirely inconceivable upon what principle they could have interdicted our intercourse; unless, indeed, imitating the example of their superiors, they concluded, that a people who would so far forget what was due to themselves as to pocket one insult, might another. But, to pass on, what will probably be the result of this measure? Great Britain will either retrace her footsteps, and, taking council from her interest, rather than her jealousy, will put our intercourse on an equal footing, and at last find, that true policy consists in an open, liberal, and friendly intercourse. Instead of compromising her honor by this course, she will excite our respect. A magnanimous nation, one who is great and powerful in her resources, can lose nothing by a just and liberal policy—or, if she fail to do this, and pursues her policy, the offspring of other days, she must have an entrepot. But that will be to our advantage, when contrasted with her condition. The presumption is that this entrepot will be in the West Indies. Her trade, being confined to the islands, will expose her seamen to that destructive climate, while ours will be relieved from its consequences by staying there but a short time, and continually returning to the United States. The present is a most fit time for the adoption of the measure. Our convention with Great Britain will terminate on the 4th of July, 1819. Our commercial intercourse must then be established by treaty, or by mutual systems of legislative regulations. The former is greatly preferable: because the latter is continually generating little irritations unfavorable to that peace and friendship which we wish to see forever preserved between this country and Great Britain. But, if it be attempted by treaty, what reasonable hope can be indulged of any better success than heretofore, if you forbear to do anything. Thou fool, said Hercules, help yourself, and then Heaven will assist you. Let us do likewise. She can then no longer withhold from us that justice to which we are entitled, and which it is to be believed, has been withheld, from an anticipation, justified indeed by length of time, that we should make no effort to do ourselves justice. The result of this day, it is to be hoped, will prove, that there are extremes beyond which injustice will not be endured by an American Senate. But if you thus acquiesce in the pretensions of Great Britain, what security have you, that all the minor Powers will not attempt the same policy? Beware of submission! With nations, as with individuals, meekness and crouching rarely stay the hand of insult or injury; it but too often provokes it. The coward not unfrequently is tempted to lay in a stock of reputation, by playing the hero on a subject unwilling to resist, or incapable. These lesser Powers, one of the smallest, begins to inculcate upon us, that we have no equivalent to offer for the West India trade.

It is time then to take a stand. Let your demands be founded in justice. Let your purpose be firm—firm as your everlasting mountains—adopt the broad principle, to treat all nations as they treat you. If they talk about a want of

equivalent, unroll the map of your country, and expose to their astonished eyes the boundless extent from the cataract of Niagara to the mouth of the Columbia—tell them of the variety of your climate, and of the fertility of your soil—of its vast productions, so essential to their commerce, and even to their existence; and, when you shall have so done, let them know, it is but the first dawns of your future wealth and power. Let them learn, that your population duplicates itself in twenty years; that it is animated by a spirit of enterprise, which has prompted them to leap the boundaries heretofore prescribed to the reach of the human mind, and in unexplored regions to discover new secrets in the arts and sciences; and that of all this, under Providence, freedom is the creator and preserver; and that it has not entered into the mind of man to conceive the pitch of elevation to which we are destined. When you have told them this, arrogance itself must be dumb.

Mr. B. feared he had already trespassed on their patience. He would, therefore, hurry across the last proposition, which is, that a direct and entire exclusion is better than a half-way system, that of onerous duties. The duties will either prevent the intercourse, or it will not. If it prevent, it approaches, circuitously, what we propose directly. This is an open system. We tell Great Britain our intercourse in this way is forever closed. If, however, the duty system should not stop the intercourse, the object of the bill is lost. It is not revenue we want—of that we already have more than enough—and you tax the people wantonly. It is to do justice to our shipping, and to maintain our maritime rights, that alone will justify the measure. By stopping intercourse at once, this object is effected. By the other, you may lose, and can't win.

The time of its commencement being the 30th September next, is to prevent those speculations and losses which not unfrequently attend any sudden and violent interruption of a long existing commerce.

When Mr. BARBOUR had concluded—

Mr. KING addressed the Chair as follows: Agriculture, manufactures, and foreign commerce, are the true sources of wealth and power of nations; agriculture is the chief and well-rewarded occupation of our people, and yields, in addition to what we want for our use, a great surplus for exportation. Manufactures are making a sure and steady progress; and, with the abundance of food and of raw materials, which the country affords, will, at no distant day, be sufficient, in the principal branches, for our own consumption, and furnish a valuable addition to our exports.

But, without shipping and seamen, the surpluses of agriculture and of manufactures would depreciate on our hands; the cotton, tobacco, bread stuffs, provisions, and manufactures, would turn out to be of little worth, unless we have ships and mariners to carry them abroad, and to distribute them in the foreign markets.

Nations have adopted different theories, as respects the assistance to be derived from navigation; some have been content with a passive

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foreign commerce—owning no ships themselves, but depending on foreigners and foreign vessels to bring to them their supplies, and to purchase of them their surpluses; while others, and almost every modern nation that borders upon the ocean, have preferred an active foreign trade, carried on, as far as consistent with the reciprocal rights of others, by national ships and seamen.

A dependence upon foreign navigation subjects those who are so dependent, to the known disadvantages arising from foreign wars, and to the expense and risk of the navigation of belligerent nations—the policy of employing a national shipping is, therefore, almost universally approved and adopted; it affords not only a more certain means of prosecuting foreign commerce, but the freight, as well as the profits of trade, are added to the stock of the nation.

The value and importance of national shipping and national seamen, have created among the great maritime Powers, and particularly in England, a strong desire to acquire, by restrictions and exclusions, a disproportionate share of the general commerce of the world.

As all nations have equal rights, and each may claim equal advantages in its intercourse with others, the true theory of international commerce is one of equality, and of reciprocal benefits; this theory gives to enterprise, to skill, and to capital, their just and natural advantages; any other scheme is merely artificial; and so far as it aims at advantages over those who adhere to the open system, it aims at profit at the expense of natural justice.

The colonial system being founded in this vicious theory, has, therefore, proved to be the fruitful source of dissatisfaction, insecurity and war. According to this system, the colonies were depressed below the rank of their fellow subjects, and the fruits of their industry and their intercourse with foreign countries, placed under different regulations from those of the inhabitants of the mother country; it was the denial to Americans of the rights enjoyed by Englishmen, that produced the American Revolution—and the same cause, greatly aggravated, is working the same effect in South America.

Among the the navigators and discoverers of the fifteenth and sixteenth centuries, the Dutch became highly distinguished, and, by enterprise, economy, and perseverance, made themselves the carriers of other nations, and their country the entrepot of Europe—and it was not until the middle of the fourteenth century, that England passed her navigation act, which had for its object to curtail the navigation of the Dutch and to extend her own.

According to this act, the whole trade and intercourse between England, Asia, Africa, and America, were confined to the shipping and mariners of England; and the intercourse between England and the rest of Europe was placed under regulations which, in a great measure, confined the same to English ships and seamen.

This act was strenuously opposed by the Dutch, and proved the occasion of the obstinate naval

Wars that afterwards followed. England was victorious, persisted in her navigation act, and, in the end, broke down the monopoly in trade which the Dutch possessed.

That in vindication of her equal right to navigate the ocean, England should have resisted the monopoly of the Dutch, and freely expended her blood and treasure to obtain her just share of the general commerce, deserved the approbation of all impartial men. But, having accomplished this object, that she should herself aim at, and in the end establish, the same exclusive system, and on a more extended scale, is neither consistent with her own laudable principles, nor compatible with the rights of others; who, relatively to her monopoly now, are in the like situation towards England in which England was towards the Dutch, when she asserted and made good her rights against them.

By the English act of navigation, the trade of the colonies is restrained to the dominions of the mother country, and none but English ships are allowed to engage in it.

So long as colonies are within such limits as leave to other nations a convenient resort to foreign markets for the exchange of the goods which they have to sell, for those they want to buy, so long this system is tolerable; but if the power of a State enables it to increase the number of its colonies and dependent territories, so that it becomes the mistress of the great military and commercial stations throughout the globe, this extension of dominion, and the consequent monopoly of commerce, seem to be incompatible with, and necessarily to abridge the equal rights of other States.

In the late debates in the English Parliament, the Minister, in the House of Lords, stated "that instead of seventeen thousand men, employed abroad in 1791, forty-one thousand were then (1816) required, exclusive of those that were serving in France and in India. That England now has forty-three principal colonies, in all of which troops are necessary; that sixteen of these principal colonies were acquired since 1791, and six of them had grown into that rank from mere colonial dependencies." And, in the House of Commons, the Minister, alluding to the acquisitions made during the war with France, said "that England had acquired what, in former days, would have been thought romance—she had acquired the keys of every great military station."

Thus, the commercial aggrandizement of England has become such, as the men who protested against monopoly, and devised the navigation act to break it down, could never have anticipated; and it may, ere long, concern other nations to inquire whether laws and principles, applicable to the narrow limits of English dominion and commerce, at the date of the navigation act, when colonies and commerce, and even navigation itself, were comparatively in their infancy; laws and principles aimed against monopoly, and adopted to secure to England her just share in the general commerce and navigation of the world,



ought to be used by England, to perpetuate in her own hands a system equally as exclusive, and far more comprehensive, than that which she was the chief agent to abolish.

Our commercial system is an open one—our ports and our commerce are free to all—we neither possess, nor desire to possess, colonies; nor do we object that others should possess them, unless thereby the general commerce of the world be so abridged, that we are restrained in our intercourse with foreign countries wanting our supplies, and furnishing in return, those which we stand in need of.

But, it is not to the colonial system, but to a new principle, which in modern times, has been incorporated with those of the navigation act, that we now object. According to this act, no direct trade or intercourse can be carried on between a colony and a foreign country; but by the free port bill, passed in the present reign, the English contraband trade, which had been long pursued, in violation of Spanish laws, between English and Spanish colonies, was sanctioned and regulated by an English act of Parliament; and, since the independence of the United States, England has passed laws, opening an intercourse and trade between her West India colonies and the United States, and, excluding the shipping of the United States, has confined the same to English ships and seamen; departing by this law not only from the principles of the navigation act, which she was at liberty to do, by opening a direct intercourse between the colonies and a foreign country, but controlling, which she had no authority to do, the reciprocal rights of the United States to employ their own vessels to carry it on.\*

Colonies being parts of the nation, are subject to its regulations; but, when an intercourse and trade are opened between colonies and a foreign country, the foreign country becomes a party, and has a reciprocal claim to employ its own vessels equally in the intercourse and trade with such colonies, as with any other part of the nation to which they belong.

Governments owe it to the trust confided to them, carefully to watch over, and by all suitable means to promote, the general welfare; and while, on account of a small or doubtful inconvenience, they will not disturb a beneficial intercourse between their people and a foreign country, they ought not to omit the interposition of their corrective authority, whenever an important public interest is invaded, or the national reputation affected. "It is good not to try experiments in States, unless the necessity be urgent, or the utility evident; and well to beware, that it be the reformation that draweth on the change, and

not the desire of change that pretendeth the reformation."

In this case, the importance of the reformation is seen and acknowledged by every one, and the delay that has occurred in the making of it may call for explanation.

We are unable to state with accuracy the tonnage and seamen employed before the Revolution, in the trade between the territories of the United States and the other English colonies, but it is known to have been a principal branch of the American navigation.

The colonies that England has since acquired from France, Spain, and Holland, together with the increased population of the old colonies, require more ships and seamen to be employed in the trade now than were engaged in it before the independence of the United States.

Without reference to the tonnage and trade between the United States and the English West India colonies, during the late wars between England and France, which, by reason of the suspension of the English navigation act, and the neutrality of the United States, will afford no standard by which the tonnage and trade of peace can be ascertained, the present custom-house returns are the best documents that we can consult upon this subject. According to a late report from the Department of the Treasury, the tonnage employed in this trade during the year 1816, which may be taken as an average, amounted to one hundred and two thousand tons, requiring between five and six thousand seamen. There may be some error in this return, though we are not able to detect it; the magnitude and importance of the shipping and seamen engaged in this trade, will be more readily understood by comparison than otherwise. The tonnage thus employed exceeds the whole tonnage employed by the English East India Company in its trade with Asia; is nearly a moiety of the American and English tonnage employed between the United States and England, and her possessions in Europe; is equal to the American tonnage employed between the United States and England, and is almost an eighth part of the whole registered tonnage of the United States.

To the loss of profits, which would accrue from an equal participation in this trade, may be added the loss of an equal share of the freights made by the vessels engaged in it; the amount whereof must be equal to two millions of dollars, annually. Other advantages are enjoyed by England, by the possession of the exclusive navigation between the United States and her colonies, and between them and England. Freights are made by English vessels between England and the United States, between them and the English colonies, as well as between those colonies and England. English voyages are thus made on the three sides of the triangle, while those of the United States are confined to one side of it, that between the United States and England.

But the money value of this great portion of our navigation, claimed and hitherto enjoyed by England, although an object that deserves the

\* England alone excludes our vessels and seamen from the trade opened between her West India colonies and the United States. In the same trade between the United States and the colonies of France, Spain, Holland, Denmark and Sweden, our vessels and seamen are alike employed, as those of the parent countries, respectively.

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public protection is not the most important view in which the same should be considered by the Senate. We must learn wisdom from past times; and while the experience of the father is too often lost on the son, this ought not to be the case in the affairs of nations, which living from age to age, and profiting by long experience, should become wiser as they grow older. The present condition of nations, and especially that of the inhabitants of our own continent, merits our watchful attention, and admonish us to cherish our national resources, and seasonably to devise, and perseveringly to build up, those establishments, that our present safety demands, and which may be commensurate with our future destiny.

Justice and moderation, which we confidently hope may preside over and guide our public councils, have not been found to be a sufficient armor for the defence of nations. "Wisdom, in the ancient mythology, was represented as armed, because experience had proved that good examples and noble precepts fail of their efficacy, unaccompanied by a power to enforce them." To defend ourselves, our houses, our harbors, and our commerce, from foreign aggression and violence, a navy is acknowledged to be necessary. From the land side we are safe—against dangers from the ocean, a navy will prove to be our cheap, our sure, and most efficient defence.

Although a subject of doubt heretofore, this truth is now so well understood, and so universally admitted, that it would be to mispend the time of the Senate to enter into its development.

An efficient navy never has existed, and cannot exist, without a commercial marine; and the maritime history of Europe, which abounds with instruction on this subject, demonstrates this political truth, that the naval power of every nation is in proportion to its commercial shipping. Money may build ships, but the navigation of the great ocean only can make seamen, and it is in connexion with this view of the subject, that the exclusion of our shipping and seamen from the navigation between the United States and the colonies of England, derives its chief importance.

The prosperity and safety of nations are promoted and established, by institutions early and wisely adapted to these ends. A navy being such an institution, and our experience having proved its importance, it has become the duty of Congress to adopt and to enforce those regulations that are necessary to its efficient establishment. None more efficacious can be devised, than such as encourage and increase the shipping and the mariners of the country, and, for this purpose, exclude those of a foreign Power from a principal branch of our own navigation; a branch that now educates and holds ready for service in the navy of England, and which would educate and hold ready for service in our own Navy, were the United States, instead of England, in the prosecution thereof, a body of several thousand seamen.

But, by passing this act, shall we not cut ourselves off from those supplies which our habits

have rendered indispensable? Will not the English colonial markets, for supplies hitherto purchased among us, and imported to them, be lost, and shall we increase our navigation by adopting the law?

The documents that have been communicated to the Senate, by the chairman of the Committee of Foreign Relations, (Mr. BARBOUR,) satisfactorily prove that we are independent of the English colonies for a supply of sugar and coffee for our own consumption; our annual re-exportation of these articles exceeding the quantity of them annually imported from the English colonies; and, in respect to rum, the other article imported from these colonies, its exclusion will be the loss to England of its best and almost only market; and its place will be readily supplied by other foreign rum and by brandy; or, which is more probable, by domestic spirits distilled from grain.

The exports from the United States to the English West India colonies have been estimated at four millions of dollars annually; the problem has been disputed ever since the independence of the United States, and still remains to be solved, whether these colonies could obtain from any other quarter the supplies received from the United States. To make this experiment effectually, further restrictions and regulations may become necessary, which it is not now deemed expedient to propose. If the question be decided in the negative, the supplies will be continued from the United States, and our shipping will be benefited.

If the articles heretofore supplied from this country can be obtained elsewhere, we must find out other markets for our exports, or the labor employed in preparing them must be applied to some other branch of industry. We have the power, and hereafter it may become our policy, as it is that of other countries, to resort to a regulation, the effect of which would go far to balance any disadvantage arising from the loss of the English colonial markets. We import annually upwards of six millions of gallons of West India rum, more than half of which comes from the English colonies; we also import, every year, nearly seven millions of gallons of molasses: as every gallon of molasses yields, by distillation, a gallon of rum; the rum imported, added to that distilled from imported molasses, is probably equal to twelve million of gallons, which enormous quantity is chiefly consumed by citizens of the United States.

If the importation of rum and molasses, for distillation, be prohibited, it would require four millions of bushels of grain for distillation to supply an equal quantity of ardent spirits; and, in this way, our agriculture would be indemnified for any loss it might suffer by losing the English colonial markets.

As respects the timber and lumber trade, including staves and woods, in all the forms in which we prepare them for exportation, should no foreign markets be found to supply those which, by the imposition of high duties, we have lost in England, and those which, by the passing

of this bill, we may lose in the English and India colonies, those who are engaged in this precarious and, generally, ill-paid and unprofitable business, will hereafter confine their supplies to our domestic wants, which constantly increase, and to the foreign markets, that are neither affected by English duties, nor the bill before us.

The timber of the country is becoming scarce, and more and more an object of public concern. The forests upon the frontier of the ocean, and on the great rivers leading to it, are nearly destroyed. In other countries, and even in Russia, the improvident waste of their timber, especially in the neighborhood of their great iron works, is becoming a national inconvenience.

Masts, spars, pine and oak timber, fit for naval purposes, and for the numerous uses for which timber and wood are wanted, were far more abundant, and of better quality formerly, and within the memory of men now living, than they are at the present day; and a little more care and economy in the use of our timber even now, will confer an important benefit on posterity. The probability, however, is that, as respects our valuable timber, we shall not want foreign markets for all we have to spare.

As a general rule it is correct, that every person should be free to follow the business he may prefer; since, by the freedom, sagacity, and enterprise of individuals, the general welfare is commonly promoted. There are, however, exceptions to this principle; and, as general rules affect unequally individual concerns, and measures adopted for the common welfare may sometimes interfere with private pursuits, from the nature and end of society, the latter must give way for and yield to the former; and in this case the general welfare, and the interest that all have in the encouragement and protection of the shipping and seamen of the country, take precedence over the private and individual interests of persons, whose occupations may thereby be somewhat affected.

Touching the last point, whether we shall increase our own navigation and seamen by passing the bill, it may be observed: If England meet us in the temper that we hope she may do, and enter into a reciprocally beneficial arrangement concerning the navigation of the two countries, our shipping will acquire thereby a portion of the carrying trade now exclusively possessed by England. If she persist in her exclusive system, and thus compel us to meet restriction by restriction, we shall not be losers by this course, but shall ultimately be gainers. According to the English navigation act, as well as the act of Parliament, that departs from it, and opens an intercourse between the English colonies and the United States, we are excluded from any share in the navigation between these colonies and the United States. No notice is taken of the occasional relaxation of the latter act, because, by the double competition created by the Americans themselves, as sellers and buyers in the English colonies, the intercourse is probably disadvantageous, rather than beneficial to us. According to the permanent law, English shipping only brings to

us her West India supplies, and takes in return the articles wanted in these colonies. If English shipping be no longer employed in this service, and the articles formerly sent to these colonies are exported to other markets, or the supplies received from them are sought for, and imported into the United States from other places, the vessels of the United States will be employed in this service, and so the navigation and mariners of the country will be encouraged and increased.

It will be found, as it has been heretofore, that new markets will be discovered, as well to purchase our surpluses as to supply our wants, should those be lost with which we have formerly had intercourse.

But why has a measure of this importance been so long deferred? The explanation which this question requires cannot be made without some reference to the history of our communications with England since the peace of 1783, as well as to the views and policy of men and parties that have in succession influenced our public affairs.

As, according to the powers of England, notwithstanding the acknowledgment of our independence, neither trade nor intercourse could be carried on between the United States and her dominions, it became necessary after the treaty of peace to pass some act whereby this trade and intercourse might be prosecuted, a bill for this purpose was introduced into the House of Commons by the Administration which concluded the treaty of peace with the United States. The general scope and provisions of the bill correspond with the liberal principles which were manifested in the treaty of peace. They plainly show that the authors of this bill understood that the true basis of the trade and intercourse between nations is reciprocity of benefit; a foundation on which alone the friendly intercourse between men and nations can be permanently established. The preamble of this bill declares "that it was highly expedient that the intercourse between Great Britain and the United States should be established on the most enlarged principles of reciprocal benefit to both countries;" and as, from the distance between them, it would be a considerable time before a treaty of commerce, placing their trade and intercourse on a permanent foundation, could be concluded, the bill, for the purpose of a temporary regulation thereof, provided, that American vessels should be admitted into the ports of Great Britain, as those of other independent States, and that their cargoes should be liable to the same duties only as the same merchandise would be subject to if the same were the property of British subjects, and imported in British vessels; and, further, that the vessels of the United States should be admitted into the English plantations and colonies in America, with any articles the growth or manufacture of the United States, and with liberty to export from such colonies and plantations to the United States any merchandise whatsoever, subject to the same duties only as if the property of British subjects, and imported or exported in British vessels; allowing, also, the same bounties, drawbacks, and exemptions, on

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goods exported from Great Britain to the United States in American vessels, as on the like exportations in British vessels to the English colonies and plantations.

The persons benefitted by the English exclusive system of trade and navigation were put in motion by this bill, which was earnestly opposed, and, after a variety of discussion, postponed or rejected. About this period Mr. Pitt, who had supported this bill in the House of Commons, resigned his office of Chancellor of the Exchequer, as his colleagues in Lord Shelburne's administration had before done. The coalition administration that succeeded introduced a new bill, which became a law, vesting in the King and Council authority to make such temporary regulations of the American navigation and trade as should be deemed expedient.

Sundry Orders in Council were accordingly made, whereby a trade and intercourse in American and English vessels between the United States and Great Britain were allowed; and, with the exception of fish oil, and one or two other articles, the produce of the United States, imported into Great Britain, was admitted freely, or subject to the duties payable on the like articles imported in English vessels from the American colonies.

An intercourse and a trade in enumerated articles were also opened between the United States and the English West India colonies, but with a proviso, (the principle whereof is still maintained against us,) whereby American vessels were excluded, and the whole trade confined to English vessels.

After a periodical renewal of these orders for several years, the regulations that they contained were adopted by, and became an act of, Parliament. This act was afterwards modified, and rendered conformable to the provision of Mr. Jay's treaty, the commercial articles of which expired in the year 1803—not long after which date England passed a new act of Parliament concerning the American navigation and trade. This act maintains the exclusion of American vessels from the intercourse between the United States and the English colonies, and confines the same, as former acts and Orders in Council had done, to English vessels; it repealed the settlement of duties pursuant to Mr. Jay's treaty; and, giving up the policy of the enlarged and liberal system of intercourse which had been proposed in Mr. Pitt's bill, it repealed such parts of all former acts and orders as admitted the productions of the United States, either freely, or, on paying the same duties only as were payable on the like articles imported from the English colonies and plantations; and placed all articles the produce of the United States, imported in American vessels, on the same footing as the like articles imported in foreign ships from other foreign countries. This new footing of our trade with England, the importance whereof is well understood by those who are engaged in supplying her markets with masts, spars, timber, naval stores, and pot and pearl ashes, may be regarded as de-

cisive evidence of a complete change of policy concerning the American trade and intercourse—which, however unsatisfactory, as respected the colonial trade, has become more so by the foregoing provision of this act of Parliament.

The policy that manifested itself in the treaty of our independence, and which is seen in the bill to regulate the trade and intercourse between England and the United States, prepared by the Administration that made the Treaty of Peace, was to unite in a firm bond of friendship, by the establishment of trade and intercourse on the solid basis of reciprocal benefit, a people politically separate, living under different governments, but, having a common origin, a common language, a common law, and kindred blood; circumstances so peculiar, as not to be found between any other nation. Instead of this policy, one of a different sort is preferred—one that England has a right to prefer; and against the many evils of which, we must protect ourselves as well as we are able to do. The intricate, countervailing, and perplexing code of commercial intercourse, founded in jealousy, and the rival establishments and pursuits of the Powers of Europe bordering upon, and constantly interfering with, each other, has been adopted and applied to the United States—a people, agricultural more than manufacturing or commercial, placed in another quarter of the globe, cultivating, and proposing to others, an open system of trade and intercourse; and herein, as in many other important discriminations, differing from the nations of Europe, and therefore not fit subjects to which these restrictive and jealous regulations are applicable.

Our policy is, and ever has been, a different one. We desire peace with all nations; and the wars of maritime Europe have taught us that a free system of trade and intercourse would be the best means of preserving it.

With these principles as our guide, at the negotiation of the Treaty of Peace in 1783, our Ministers were authorized to conclude a treaty of commerce with England on this basis; but no treaty was concluded. Afterwards, and when a temporary trade and intercourse were opened by England, looking, as we supposed, to a treaty of Commerce, Congress instructed Messrs. Adams, Franklin, and Jefferson, to renew the overture of a treaty of commerce, which was done through the English Ambassador at Paris, in the year 1784; but no correspondent disposition being shown by England, this second overture failed.

The interest and prejudice of those who were benefitted by the monopolies and exclusive system of England, were opposed to any treaty with this country, on the principle of reciprocal advantage. The political writers of that day, under the influence of these partial views, or not sufficiently appreciating the true theory of commerce, contended that it would be folly to enter into engagements by which England might not wish to be bound in future; that such engagements would be gratuitous; as, according to their interpretation, Congress possessed no power, under the confederation, to enforce any stipulation into

which they might enter; that no treaty that could be made would suit all the States; if any were necessary, they should be made with the States separately; but that none was necessary; and those who talked of liberality and reciprocity in commercial affairs, were either without argument or knowledge; that the object of England was, not reciprocity and liberality, but to raise as many sailors and as much shipping as possible.\*

This unequal footing of our foreign commerce, and the language made use of by England at this juncture, served still more to increase the public discontent; especially as it was plainly avowed that England ought to render the trade with us as exclusively advantageous to herself as her power would enable her to do. Congress having no power, under the Confederation, to impose countervailing and other corrective regulations of trade, the States separately attempted to establish regulations upon this subject. But, as a part only of the States joined in this measure, and as the laws that were passed for this purpose differed from each other, the experiment completely failed.

In this condition of our navigation and trade, subject to foreign restrictions and exclusion, without a power at home to countervail and check the same, Congress resolved to make another effort to conclude a commercial treaty with England. For this purpose Mr. Adams, since President of the United States, was appointed, and went to England. Mr. Adams resided in England for several years; but found and left the Government unchanged, and equally as before disinclined to make with us a treaty of commerce.

This further disappointment, with the depreciating condition of our navigation and trade, joined to the embarrassment of the public finances, produced what no inferior pressure could have done; it produced the General Convention of 1787, that formed the Constitution of the United States.

Had England entered into a liberal treaty of commerce with the United States, this convention would not have been assembled. Without so intending it, the adherence of England to her unequal and exclusive system of trade and navigation, gave to this country a Constitution; and the countervailing and equalizing bill now before the Senate, arising from the same cause, may assist us in establishing and extending those great branches of national wealth and power, which we have such constant and urgent motives to encourage.

The establishment of the Constitution of the United States was coeval with the commencement of the French Revolution. The sessions of the General Convention at Philadelphia, and of the Assembly of Notables at Paris, were in the same year.

Laws were passed by the first Congress assembled under the new Constitution, partially to correct the inequality of our navigation and trade

with foreign nations; and a small discrimination in duties of impost and tonnage was made for this purpose.

Afterwards, in the year 1794, a number of resolutions on the subject of navigation and trade were moved in the House of Representatives, by a distinguished member of that body. These resolutions had a special reference to the refusal of England to enter into an equal commercial treaty with us, aimed at countervailing her exclusive system. Other and more direct resolutions, bearing on England, were also proposed by other members, and referred to the inexecution of the Treaty of Peace, and to the recent captures of American vessels, by English cruisers, in the American seas.

The policy of these resolutions was doubted; they were therefore strenuously opposed, and the extraordinary mission of Mr. Jay to England suspended their further discussion.

The French Revolution had by this time become the subject of universal attention. War had broken out between France and England. The avowed policy of our own Government to avoid war, and to adhere to a system of neutrality, was much questioned; and for a time it was matter of great uncertainty whether the country would support the neutrality recommended by the President.

The universal dissatisfaction, on account of the commercial system of England, the inexecution of the articles of peace, the numerous captures by orders of the French Government, of our vessels, employed in a trade strictly neutral, combined with our friendly recollections of the services of France, and our good wishes in favor of the effort she professed to be making to establish a free constitution, constituted a crisis most difficult and important.

It was in these circumstances, that President WASHINGTON nominated Mr. Jay as Envoy to England. The Senate confirmed the nomination, and the immediate effect was, the suspension of the further discussion of the important resolutions before the House of Representatives.

England seems never to have duly appreciated the true character and importance of this extraordinary measure. France well understood and resented it. Mr. Jay was received with civility, and concluded a treaty with England on all the points of his instructions. When published, it met with great opposition. The article respecting the West India trade, had been excluded from the treaty by the Senate, by reason of the inadmissible condition or proviso that was coupled with it—with this exception, it was finally ratified by the President.

Although the treaty did not come up to the expectation of all, in addition to the satisfactory arrangements, concerning English debts, the unlawful capture and condemnation of our vessels, and the delivery of the ports, points of very great importance, it contained articles regulating the trade, navigation, and maritime rights of the two countries. No treaty that could have been made with England would, in the highly excited

\* Sheffield, Chalmers, and Knox.

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temper of the country, have satisfied it. But, to those whose object it was to prevent the country from taking part in the war between France and England, and to prevail upon it to adhere to a system of impartial neutrality; who, moreover, believed, that the safety, and even liberties of the country were concerned in the adoption of this course, the treaty proved a welcome auxiliary.

It suspended the further agitation of difficult and angry topics of controversy with England; it enabled the Government to persist in, and to maintain, the system of neutrality which had been recommended by the Father of his Country—a policy, the correctness and benefits of which, whatever may have been the disagreement of opinion among the public men of those times, that will now scarcely be doubted.

During the continuance of this treaty, further though ineffectual attempts were made to establish a satisfactory intercourse with the English colonies in the West Indies, and, likewise, to place the subject of impressment on a mutually safe and equitable footing.

The commercial articles of this treaty expired in 1804, no proposal having been made to renew them. A subsequent negotiation took place, but nothing was definitively concluded. The Peace of Amiens was of short duration. Another war took place between France and England; no maritime treaty existed between the United States and England; and the manner in which England exercised her power on the ocean; the great interruption of the navigation and trade of neutral nations; the numerous captures of their ships and cargoes under the retaliatory decrees and orders of France and England, with other vexatious occurrences, revived the former angry feelings towards England, and greatly contributed to the late war with that nation.

This war was closed not long after the conclusion of the general peace in Europe; and the Treaty of Ghent was followed by a meagre commercial convention, made at London, and limited, in its duration, to a few years only.

Neither the spirit of the negotiation, nor the scope of the articles, afford any evidence that England is inclined to treat with this country on the only principle on which a commercial treaty with her can be desirable. Her decision on this point seems to be beyond question, as our latest communications inform us that her ancient system will not be changed; and, in case we are dissatisfied with its operation, that England has no objection to our taking any such measures concerning the same, as we may deem expedient—an intimation that puts an end to further overtures on our part. Such is the explanation why the measure now proposed has been so long deferred.

During the Confederation, Congress were without power to adopt it.

The treaty concluded by Mr. Jay, in 1794, the relaxation of the navigation and colonial laws, during the war between France and England, and the advantages derived from our neutral trade while this war continued, rendered the measure inexpedient during this period.

And the expectation since entertained that a more enlarged and equal treaty of commerce and navigation, applicable, in its provisions, to peace as well as war, might be substituted in place of the present commercial convention, has hitherto suspended the interference of Congress.

This expectation must be given up; England has apprized us of her decision to adhere to her ancient and exclusive system of trade and navigation, and the only alternative before us, is to submit to the regulation of our own navigation by England, or to interpose the authority of the Constitution to countervail the same. There can be no hesitation in the choice.

The bill before the Senate, is in nothing unfriendly towards England—it is merely a commercial regulation, to which we are even invited; a measure strictly of self-defence, and intended to protect the legitimate resources of our own country from being any longer made use of, not as they should be, for our benefit, but to increase and strengthen the resources and power of a foreign nation.

The time is propitious; causes that formerly prevented the union of opinions in favor of this measure no longer exist; the Old World is at peace; and each nation is busily employed in repairing the waste of war, by cultivating the arts, and extending the blessings of peace—England has come out of the most portentous war that Europe has ever suffered, not only unbroken, but with increased power.

Her agriculture, manufactures, and commerce, were cherished; were without interruption, and increased, while those of neighboring nations were suspended, interrupted, or destroyed.

Her colonies and dependent territories, have been greatly enlarged, at the expense of her enemies; and regions, with which we and others once had trade and intercourse, having fallen under the dominion of England, are now closed against us.

We have no other questions depending with England, except those concerning impressment\* and the fisheries,† and their settlement, can, in no manner, be affected by the passing of this act.

\* With the English laws of allegiance and impressment we have no other concern than to exempt our citizens from their application. We do not desire the service of English seamen, and England should be the last to seize our citizens and force them into her service. She disclaims this purpose, but persists in a practice, to discover and impress her own seamen, that, unavoidably, subjects ours to her violence.—Whatever her rights may be, they should be so used as not to hurt ours. This is a precept of universal justice—a regulation may be devised, that if not perfect in every case, would be so generally correct, that, considering the difficulty of the subject, it ought to be satisfactory.

† As regards the fisheries, those of the ocean, not within the territorial limits of any nation, are free to all men, who have not renounced their rights; those on the coasts and bays of the provinces, conquered in America, from France, were acquired by the common sword, and mingled blood, of Americans and English-



England is a great and illustrious nation, having attained to this pre-eminence by generous and successful efforts, in breaking down the civil and religious bondage of former ages. Her patriots, her scholars, and her statesmen, have adorned her history, and offer models for the imitation of others.

We are the powerful descendants of England, desiring perpetual friendship, and the uninterrupted interchange of kind offices and reciprocal benefits with her. We have demonstrated, in circumstances the most critical, constant and persevering evidence of this disposition. We still desire the impartial adjustment of our mutual intercourse, and the establishment of some equitable regulations, by which our personal and maritime rights may be secure from arbitrary violation. A settlement that, instead of endless collision and dispute, may be productive of concord, good humor, and friendship: and it depends on England whether such is to be the relation subsisting between us.

If this bill become a law, it must be followed up by ulterior provisions, if requisite, to give to it complete effect. Either the intercourse must be reciprocally beneficial, or it must not be suffered to exist.

Mr. MACON spoke in support of the bill; after which—

The question, "Shall the bill be engrossed and read a third time?" was taken, and determined in the affirmative—yeas 32, nays 1, as follows:

YEAS—Messrs. Barbour, Burrill, Crittenden, Daggett, Dickerson Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Lacock, Leake, Maccon, Morril, Morrow, Noble, Otis, Roberts, Ruggles, Sanford, Smith, Stokes, Storer, Tait, Talbot, Taylor, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAY—Mr. Eppes.

#### SATURDAY, April 4.

Mr. STORER, from the Committee on the Militia, to whom was referred a resolution respecting the expediency of setting apart and appropriating the dividends which shall arise from the shares held by the Government in the Bank of the United States to the manufacture of arms and equipments for arming and equipping the whole body of the militia of the United States, reported—

"That it is inexpedient, at this time, to make the appropriation contemplated by the resolution;" and the report was read.

On motion by Mr. STORER, the Committee on the Militia, to whom was referred a resolution instructing them to inquire into the expediency of augmenting the pay of the militia when called

men—members of the same empire, we, with them, had a common right to these fisheries; and, in the division of the empire, England confirmed our title, without condition or limitation—a title equally irrevocable with those of our boundaries, or of our independence itself—

—*Litusque rogamus.*

*Innocuum, et cunctis undamque, auramque, palentem.*

into the service of the United States, were discharged from the further consideration thereof.

Mr. DICKERSON, from the joint committee, appointed to take into consideration what business is necessary to be acted upon before the close of the present session, made a report, which was read.

Mr. LACOCK, from the committee to whom was referred the bill, entitled "An act making further appropriations for the construction of the Cumberland road," reported the same without amendment.

On motion by Mr. NOBLE, the Committee on Pensions, to whom was referred the bill, entitled "An act authorizing John Taylor to be placed on the list of Navy pensioners," were discharged from the further consideration thereof, and it was referred to the Committee on Naval Affairs.

Mr. CRITTENDEN, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act to provide for the publication of the laws of the United States, and for other purposes," reported the same with an amendment; which was read; and, on motion by Mr. CRITTENDEN, the Committee on the Judiciary, to whom was referred the memorial of John B. Colvin, respecting the future publication of the laws of the United States, and also the memorial of Jonathan Elliot, praying the patronage of Congress to the publication of Domestic State Papers, were discharged from the further consideration thereof respectively.

The Senate resumed the consideration of the motion submitted by Mr. KING, on the 3d instant; and the same having been amended, was agreed to as follows:

*Resolved*, That the Secretary of the Treasury do report to the Senate the sum of the funded debt of the United States, bearing an interest of seven, six, and three per cent.; distinguishing the amount of each that has been paid by the subscribers towards the capital of the Bank of the United States; distinguishing also the sums of the respective species of funded debt paid on account of the several instalments to the bank; stating the sums and species of funded debt sold by the bank; how much thereof was purchased or redeemed by the United States; how much has been sold without the United States; and how much is now held by the bank.

The amendments to the bill, entitled "An act for the relief of Narcissus Broutin, and others," having been reported by the committee correctly engrossed, the bill was read a third time, as amended, and passed.

The bill, entitled "An act concerning the Territory of Alabama," was read a third time, and passed.

The bill, entitled "An act making appropriation for the support of Government for the year 1818," was read a third time as amended, and passed.

The bill for the relief of Francis Henderson, was read the second time.

Mr. BARBOUR asked and obtained leave to bring in a resolution, authorizing a subscription for the edition of Statistical Annals proposed to

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be published by Adam Scybert, of Philadelphia; and the resolution was read, and passed to the second reading.

The bill concerning navigation was read a third time; and having been amended by unanimous consent, on the question, "Shall this bill pass?" it was determined in the affirmative—years 31, nays 2, as follows:

**YEAS**—Messrs. Barbour, Burrill, Campbell, Crittenden, Daggett, Dickerson, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Lacock, Macon, Morrill, Morrow, Noble, Otis, Ruggles, Sanford, Smith, Stokes, Storer, Tait, Talbot, Taylor, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

**NAYS**—Messrs. Eppes and Wilson.

So it was *Resolved*, That this bill pass, and that the title thereof be, "An act concerning navigation."

On motion by Mr. CAMPBELL, the Committee on Finance, to whom was referred the memorial of the American Bible Society, praying the privilege of importing paper free of duty, and the memorial of the Philadelphia Bible Society, praying the remission of all duties on stereotype plates already imported, and that they be permitted to import the sacred scriptures in foreign languages, free of duty; and also the memorial of the President and Directors of the Bank of the United States, praying certain amendments to the act incorporating said bank, were discharged from the further consideration thereof respectively.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act in addition to the 'Act for the punishment of certain crimes against the United States, and to repeal the acts therein described,' together with the amendments reported thereto by the Committee on Foreign Relations; and, on motion by Mr. BARBOUR, the bill, together with the amendments, were committed to the Committee on Foreign Relations further to consider and report thereon.

The bill, entitled "An act for the relief of Sarah Dewees, relict and widow of William Dewees, deceased, and the heirs and legal representatives of the said William Dewees," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act for the relief of Gad Worthington," was read the second time, and referred to the Committee on Finance.

The bill to repeal part of the act, entitled "An act to provide for surveying the coasts of the United States," was read the second time.

The bill, entitled "An act for the relief of the houses of Thomas and John Clifford, Elisha Fisher and Company, Thomas Clifford and Son, and Thomas Clifford of Philadelphia, and Charles Wigram of Baltimore," was read the second time, and referred to the Committee on Finance.

The bill, entitled "An act for the relief of John Rodgers," was read the second time, and referred to the Committee of Claims.

The bill, entitled "An act for the relief of

certain friendly Creek Indians, of the mixed blood," was read the second time, and referred to the Committee on Public Lands.

The Senate resumed the consideration of the amendment of the House of Representatives to the bill, entitled "An act to provide for paying to the State of Indiana three per cent. of the net proceeds arising from the sales of the United States lands within the same;" and, on motion by Mr. CAMPBELL that the Senate disagree thereto, it was determined in the affirmative—years 22, nays 8, as follows:

**YEAS**—Messrs. Barbour, Burrill, Campbell, Crittenden, Daggett, Dickerson, Eppes, Gaillard, Goldsborough, Johnson, King, Macon, Morrill, Morrow, Otis, Smith, Stokes, Storer, Tait, Talbot, Williams of Mississippi, and Wilson.

**NAYS**—Messrs. Fromentin, Noble, Ruggles, Sanford, Taylor, Tichenor, Van Dyke, and Williams of Tennessee.

So it was *Resolved*, That the Senate disagree to said amendment.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the compensation of certain judges of the courts of the United States; and the further consideration thereof was postponed to, and made the order of the day for, Monday next.

On motion by Mr. NOBLE, the Committee on Pensions, who were instructed by a resolution of the Senate, to inquire into the expediency of placing Adam Crum on the pension list, were discharged from the further consideration thereof.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of General Moses Porter," reported the same, with amendments; which were read.

The Senate adjourned to Monday morning.

MONDAY, April 6.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Sarah Dewees, relict and widow of William Dewees, deceased, and the heirs and legal representatives of the said William Dewees, reported the same without amendment.

Mr. ROBERTS, from the same committee, to whom was referred the bill, entitled "An act for the relief of John Rodgers," also reported it without amendment.

Mr. FROMENTIN presented the petition of Hiacynth Laclotte, of the city of New Orleans, praying the remission of the duties charged on the plate and engravings imported from France, representing a view of the battle of the 8th of January, 1815, in defence of the city of New Orleans; and the petition was read, and referred to the Committee on Finance.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom was referred the bill, entitled "An act to change the name of the district of Erie, in the State of Ohio," reported the same without amendment.

Mr. RUGGLES presented the petition of John

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Brooks, of Belmont county, in the State of Ohio, praying the remission of certain duties on his distillery, which accrued during the time he was unable to use it, as stated in the petition; which was read, and referred to the same committee.

Mr. VAN DYKE, from the Committee on Pensions, to whom was referred the petition of Smith P. Slocum, of Pawtuxet, in the State of Rhode Island, made a report, accompanied by a resolution, that the report of the petitioner ought not to be granted. The report and resolution were read.

The bill, authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile, was read the second time.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the memorial of John Hall, praying that Congress may pass a law authorizing the allowance of one hundred and fifty doubloons in the settlement of his accounts at the Navy Department, which he states to have been robbed from him; and the resolution having been amended, by striking out the word "not," it was resolved that the prayer of the petitioner ought to be granted; and the Committee of Claims were instructed to report a bill accordingly.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of Major Loring Austin, and George R. Wells;" a bill, entitled "An act for the relief of Major General Jacob Brown;" a bill, entitled "An act to establish a port of entry and delivery at Cape Vincent, at the fork of Lake Ontario, and the head of the river St. Lawrence;" and also, a bill, entitled "An act to abolish the port of delivery established at the mouth of Slade's Creek, in the State of North Carolina;" in which bills they request the concurrence of the Senate. They have also passed the bill, which originated in the Senate, entitled "An act directing the manner of appointing Indian agents, and continuing the 'Act for establishing trading-houses with the Indian tribes,' with an amendment, in which they request the concurrence of the Senate.

The Senate proceeded to consider the amendment of the House of Representatives to the last mentioned bill; and it was referred to the Committee on Military Affairs.

The four bills last brought up for concurrence were read, and severally passed to the second reading.

The bill, entitled "An act for the relief of Major General Jacob Brown," was read the second time by unanimous consent, and referred to the Committee of Claims.

The bill, entitled "An act for the relief of Major Loring Austin and George R. Wells," was read the second time by unanimous consent, and referred to the same committee.

The bill, entitled "An act to establish a port of entry and delivery at Cape Vincent, at the fork of Lake Ontario, and the head of the river St.

Lawrence," was read the second time by unanimous consent, and referred to the Committee on Commerce and Manufactures.

The bill, entitled "An act to abolish the port of delivery established at the mouth of Slade's Creek, in the State of North Carolina," was read the second time by unanimous consent, and referred to the last mentioned committee.

Agreeably to the order of the day, the Senate resumed, as in Committee of the Whole, the consideration of the bill to increase the compensation of certain Judges of the Courts of the United States; and Mr. BARBOUR was requested to take the Chair.

On motion by Mr. FROMENTIN, to fill the blank in line 6, with "five thousand," being the yearly compensation to the Chief Justice, it was determined in the affirmative—yeas 25, nays 4, as follows:

YEAS—Messrs. Barbour, Burrill, Daggett, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Morrow, Otis, Roberts, Ruggles, Sanford, Smith, Stokes, Storer, Tait, Taylor, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Macon, Morrill, Talbot, and Wilson.

On motion by Mr. WILLIAMS, of Mississippi, to fill the blank in line 33, with "three thousand six hundred," being the contemplated compensation to the judge of the district of Louisiana, it was determined in the negative—yeas 5, nays 27, as follows:

YEAS—Messrs. Fromentin, Gaillard, Johnson Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Barbour, Burrill, Campbell, Daggett, Dickerson, Goldsborough, Horsey, Hunter, King, Lacoek, Leake, Macon, Morrill, Morrow, Otis, Roberts, Ruggles, Sanford, Smith, Stokes, Storer, Tait, Talbot, Taylor, Tichenor, Van Dyke, and Wilson.

The compensations of the judges of the districts of Massachusetts, of the two districts of New York, the two districts of Pennsylvania, the district of Maryland, of Virginia, of North Carolina, of South Carolina, of Georgia, of Kentucky, and of Tennessee, was fixed at two thousand a year; and that of the judges of the districts of Maine, of New Hampshire, of Rhode Island, of Connecticut, of Vermont, of New Jersey, of Delaware, of Ohio, of Indiana, of Mississippi, and the territorial judges, at one thousand five hundred dollars each, all to commence in July next; in which shape the bill was ordered to be engrossed for a third reading.

The resolution authorizing a subscription for five hundred copies of Statistical Annals, proposed to be published by Adam Seybert, was read the second time, and referred to a select committee, to consist of five members, with instructions to inquire also into the propriety of subscribing for the work of Timothy Pitkin; and Messrs. BARBOUR, KING, DAGGETT, HUNTER, and DICKERSON, were appointed the committee.

Mr. CAMPBELL, from the Committee on Finance, to whom the subject was referred, reported a bill, to suspend for a limited time, the sale or forfeiture of lands for failure in completing the

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payment thereon; and the bill was read, and passed to the second reading.

Mr. ROBERTS, from the Committee of Claims, pursuant to instructions, reported a bill for the relief of John Hall, late a major of marines; and the bill was read, and passed to the second reading.

The Senate resumed the consideration of the report of the Committee on Naval Affairs, to whom was referred the memorial of certain commissioned officers of the Navy, under the rank of commanders, and the memorial of certain officers of the Marine Corps attached to the Mediterranean squadron of date the 17th January, 1817; and in concurrence therewith, the Committee on Naval Affairs were discharged from the further consideration thereof.

### TUESDAY, April 7.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of John Anderson;" a bill, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States;" a bill, entitled "An act respecting the organization of the Army, and for other purposes;" and also, a bill, entitled "An act for the relief of John Work," in which bills they request the concurrence of the Senate.

The four bills last mentioned were read, and severally passed to the second reading.

The bill, entitled "An act for the relief of John Anderson," was read the second time, by unanimous consent, and referred to the Committee of Claims.

The bill, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," was read the second time, by unanimous consent, and referred to the Committee on Public Lands.

The bill, entitled "An act respecting the organization of the Army, and for other purposes," was read the second time, by unanimous consent, and referred to the Committee on Military Affairs.

The bill, entitled "An act for the relief of John Work," was read the second time, by unanimous consent, and referred to the same committee.

Mr. LACOCK presented the petition of Samuel Smith, attorney for Elisha Allen, an ensign, who acted as wagon-master to a brigade, praying additional allowance of pay therefor; and the petition was read, and referred to the Committee of Claims.

Mr. TART, from the Committee on Naval Affairs, to whom was referred the bill, entitled "An act authorizing John Taylor to be placed on the list of navy pensioners," reported the same without amendment.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred

the amendment of the House of Representatives to the bill, entitled "An act directing the manner of appointing Indian agents, and continuing the act for establishing trading-houses with the Indian tribes," reported the same without amendment.

Whereupon, on motion by Mr. WILLIAMS, of Tennessee,

*Resolved*, That the Senate disagree to the said amendment, and ask a conference on the disagreeing votes of the two Houses.

Mr. WILLIAMS, of Tennessee, Mr. LACOCK, and Mr. TAYLOR, were appointed the managers at the said conference, on the part of the Senate.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of the legal representatives of George Pearson," reported the same without amendment.

Mr. MORROW, from the same committee, to whom was referred the amendments of the House of Representatives to the bill, entitled "An act to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office; and for designating the western boundary line of the Virginia military tract," reported the same without amendment; and the Senate concurred therein.

The bill for the relief of John Hall, late major of marines, was read the second time.

The bill to suspend for a limited time, the sale or forfeiture of lands, for failure in completing the payment thereon, was read the second time.

The Senate resumed the consideration of the report of the Committee on the Militia, to whom was referred a resolution respecting the expediency of setting apart and appropriating the dividends which shall arise from the shares held by the Government in the Bank of the United States, to the manufacture of arms and equipments for arming and equipping the whole body of the militia of the United States; and, on motion by Mr. MACON, the further consideration thereof was postponed until the first Monday in July next.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Smith P. Slocum, of Pawtuxet, in the State of Rhode Island; and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to alter and establish the boundary line between the State of Mississippi and the Alabama Territory; and, on motion by Mr. LEAKE, the further consideration thereof was postponed until the first Monday in July next.

The bill to increase the compensation of certain judges of the courts of the United States, was reported by the committee correctly engrossed, and the blanks having been filled, on the question, "Shall this bill pass?" it was determined in the affirmative—yeas 19, nays 14, as follows:

YEAS—Messrs. Barbour, Burrill, Campbell, Daggett, Fromentin, Gaillard, Goldsborough, Horsey,

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Hunter, Johnson, King, Leake, Otis, Sanford, Smith, Stokes, Tait, Taylor, and Van Dyke.

NAYS—Messrs. Crittenden, Dickerson, Eppes, La-  
cock, Macon, Morril, Morrow, Noble, Roberts, Rug-  
gles, Storer, Talbot, Williams of Mississippi, and  
Wilson.

So it was, *Resolved*, That this bill pass, and  
that the title thereof be, "An act to fix the com-  
pensation of certain judges of the courts of the  
United States."

The Senate resumed, as in Committee of the  
Whole, the consideration of the bill for the relief  
of Samuel F. Hooker; and the bill having been  
amended, the PRESIDENT reported it to the House  
accordingly; and the amendments being agreed to,  
the further consideration thereof was post-  
poned until to-morrow.

The Senate resumed, as in Committee of the  
Whole, the consideration of the bill, entitled "An  
act fixing the time for the next meeting of Con-  
gress;" and the further consideration thereof  
was postponed to, and made the order of the day  
for, Tuesday next.

The Senate resumed, as in Committee of the  
Whole, the consideration of the bill, entitled "An  
act to authorize the payment of certain certifi-  
cates;" and the bill having been amended by  
striking out the third section, the PRESIDENT re-  
ported it to the House accordingly; and the  
amendments being concurred in, it was ordered  
to be engrossed, and the bill read a third time as  
amended.

The Senate resumed, as in Committee of the  
Whole, the consideration of the bill for the relief  
of Aquila Giles; and no amendment having been  
made thereto, the PRESIDENT reported it to the  
House, and the bill was ordered to be engrossed,  
and read a third time.

The Senate resumed, as in Committee of the  
Whole, the consideration of the bill, in addition  
to "An act to prohibit the introduction of slaves  
into any port or place within the jurisdiction of  
the United States, from and after the first day of  
January, 1800;" and to repeal certain parts of the  
same; and the further consideration thereof was  
postponed to, and made the order of the day for,  
to-morrow.

The Senate resumed, as in Committee of the  
Whole, the consideration of the bill confirming  
Anthony Cavalier and Peter Petit in their claim  
to a tract of land; and, no amendment having  
been made thereto, the PRESIDENT reported it to  
the House accordingly; and it was ordered to be  
engrossed, and read a third time.

On motion by Mr. CAMPBELL, the memorial of  
the President and Directors of the Bank of the  
United States, praying certain amendments to the  
act incorporating said bank, was recommitted to  
the Committee on Finance.

The Senate resumed, as in Committee of the  
Whole, the consideration of the bill for the re-  
lief of Francis Henderson; and, on motion by Mr.  
WILSON, the further consideration thereof was  
postponed until the first Monday in July next.

The Senate resumed, as in Committee of the  
Whole, the consideration of the bill, entitled "An

act to provide for the publication of the Laws of  
the United States, and for other purposes," to-  
gether with the amendment reported thereto by  
the Committee on the Judiciary; and, the amend-  
ment having been agreed to, the further consid-  
eration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the  
Whole, the consideration of the bill to repeal part  
of the act, entitled "An act to provide for survey-  
ing the coasts of the United States;" and, the bill  
having been amended, the PRESIDENT reported it  
to the House accordingly; and, the amendments  
being concurred in, the bill was ordered to be en-  
grossed, and read a third time.

The Senate resumed, as in Committee of the  
Whole, the consideration of the bill, entitled "An  
act making further appropriations for the con-  
struction of the Cumberland road;" and, no amend-  
ment having been made thereto, the PRESIDENT  
reported it to the House, and it passed to a third  
reading.

The Senate resumed, as in Committee of the  
Whole, the consideration of the bill, entitled "An  
act for the relief of General Moses Porter," to-  
gether with the amendments reported thereto by  
the Committee on Public Lands; and, the amend-  
ments having been agreed to, the PRESIDENT re-  
ported the bill to the House amended accord-  
ingly; and, the amendments being concurred in,  
they were ordered to be engrossed, and the bill  
read a third time as amended.

The Senate resumed, as in Committee of the  
Whole, the consideration of the bill, entitled "An  
act for the relief of Sarah Dewees, relict and  
widow of William Dewees, deceased, and the  
legal representatives of the said William De-  
wees;" and, no amendment having been made  
thereto, the PRESIDENT reported it to the House,  
and it passed to a third reading.

The Senate resumed, as in Committee of the  
Whole, the consideration of the bill, entitled "An  
act for the relief of John Rodgers;" and, no  
amendment having been made thereto, the PRES-  
IDENT reported it to the House, and it passed to a  
third reading.

The Senate resumed, as in Committee of the  
Whole, the consideration of the bill, entitled "An  
act to change the name of the district of Erie, in  
the State of Ohio;" and, no amendment having  
been made thereto, the PRESIDENT reported it to  
the House, and it passed to a third reading.

The Senate resumed, as in Committee of the  
Whole, the consideration of the bill authorizing  
the disposal of certain lots of public ground in the  
city of New Orleans and town of Mobile; and,  
the bill having been amended, the PRESIDENT  
reported it to the House accordingly; and, the  
amendments being concurred in, the bill was or-  
dered to be engrossed, and read a third time.

WEDNESDAY, April 8.

The bill for the relief of Aquila Giles was read  
a third time, and passed.

The amendments to the bill, entitled "An act  
for the relief of General Moses Porter," having

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been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The bill, confirming Anthony Cavalier and Peter Petit in their claim to a tract of land, was read a third time, and passed.

The bill to repeal part of the act, entitled "An act to provide for surveying the coasts of the United States," was read a third time, and passed.

The bill authorizing the disposal of certain lots of public ground in the city of New Orleans and town of Mobile, was read a third time, and passed.

The amendment to the bill, entitled "An act to authorize the payment of certain certificates," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The bill, entitled "An act making further appropriations for the construction of the Cumberland road," was read a third time, and passed.

The bill, entitled "An act for the relief of Sarah Dewees, relict and widow of William Dewees, deceased, and the heirs and legal representatives of the said William Dewees," was read a third time, and passed.

The bill, entitled "An act for the relief of John Rodgers," was read a third time, and passed.

The bill, entitled "An act to change the name of the district of Erie, in the State of Ohio," was read a third time, and passed.

The Senate resumed the consideration of the report of the Committee on Pensions, to whom was referred the petition of Smith P. Slocum, of Pawtuxet, in the State of Rhode Island; and the further consideration thereof was postponed until the first Monday in July next.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Major General Brown," reported the same with amendments; which were read.

A message from the House of Representatives informed the Senate that the House agree to the conference proposed on the disagreeing votes of the two Houses, on the amendment of the House of Representatives to the bill, entitled "An act to direct the manner of appointing Indian agents, and continuing the 'Act for establishing trading-houses with the Indian tribes,' and have appointed managers at the said conference on their part. They have passed the bill which originated in the Senate, entitled "An act regulating the Staff of the Army," with amendments; in which they request the concurrence of the Senate. They have also passed a bill, entitled "An act to provide for erecting additional buildings for the accommodation of the several Executive departments;" a bill, entitled "An act for the relief of Thomas Miller and Stephen Baker;" a bill, entitled "An act for the relief of Benjamin Birdsall and William S. Foster;" a bill, entitled "An act for the relief of Frederick Brown;" a bill, entitled "An act to continue in force an act, entitled 'An act relating to settlers on lands of the United States;'" a bill, entitled "An act for the relief of Seth Sprague, and others;" and also a bill, entitled "An act making appropriations for the public

buildings, and for furnishing the Capitol and President's house;" in which bills they request the concurrence of the Senate.

The seven bills last brought up for concurrence were read, and severally passed to the second reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, in addition to "An act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1808," and to repeal certain parts of the same; and, the bill having been amended, the further consideration thereof was postponed until to-morrow.

The bill, entitled "An act making appropriations for the public buildings, and for furnishing the Capitol and President's house," was read the second time, by unanimous consent, and referred to the Committee on the District of Columbia.

The bill, entitled "An act to provide for erecting additional buildings for the accommodation of the several Executive departments," was read the second time, by unanimous consent, and referred to the Committee on the District of Columbia.

The bill, entitled "An act for the relief of Seth Sprague, and others," was read the second time, by unanimous consent, and referred to the Committee on Commerce and Manufactures.

The bill, entitled "An act to continue in force an act, entitled 'An act relating to settlers on lands of the United States,'" was read a second time, by unanimous consent, and referred to the Committee on the Public Lands.

The bill, entitled "An act for the relief of Benjamin Birdsall and William S. Foster;" the bill, entitled "An act for the relief of Thomas Miller and Stephen Baker;" and the bill, entitled "An act for the relief of Frederick Brown," were severally read the second time by unanimous consent, and referred to the Committee of Claims.

Mr. BARBOUR, from the Committee on Foreign Relations, to whom was referred the bill, entitled "An act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein described," reported the same with amendments; which were read.

On motion by Mr. WILLIAMS, of Tennessee, the Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act regulating the Staff of the Army," and concurred therein.

The Senate resumed the consideration of the bill for the relief of Samuel F. Hooker; and no further amendment having been made thereto, it was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for the publication of the Laws of the United States, and for other purposes;" and the bill having been further amended, on motion the Senate adjourned.



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THURSDAY, April 9.

SAMUEL W. DANA, from the State of Connecticut, took his seat in the Senate.

On motion by Mr. BARBOUR, it was unanimously agreed to suspend the third rule for conducting business in the Senate, as it respects the honorable Mr. DANA, to wit: "Every member when he speaks shall address the Chair, standing in his place, and when he has finished shall sit down."

The Senate resumed, as in Committee of the Whole, the consideration of the bill, in addition to "An act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States from and after the first day of January, in the year of our Lord 1808," and to repeal certain parts of the same; Mr. BARBOUR was requested to take the Chair, and the bill having been amended, the President resumed the Chair, and it was reported to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The bill for the relief of Samuel F. Hooker was read a third time and passed.

A message from the House of Representatives informed the Senate that they have passed the bill, which originated in the Senate, entitled "An act to make valid certain acts of the justices of the peace in the District of Columbia," with an amendment, in which they request the concurrence of the Senate. They have also passed a resolution directing the completion of the survey of the waters of the Chesapeake Bay, and for the establishment of naval arsenals and other purposes, in which they request the concurrence of the Senate.

The resolution last mentioned was read twice by unanimous consent, and referred to the Committee on Naval Affairs.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act to make valid certain acts of the justices of the peace in the District of Columbia;" and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for the publication of the Laws of the United States, and for other purposes;" and the bill having been further amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, were ordered to be engrossed, and the bill was read a third time as amended.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," reported the same with amendments; which were read.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of John Hall, late major of marines; and the bill

having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, the bill was ordered to be engrossed and read a third time—yeas 18, nays 12, as follows:

YEAS—Messrs. Campbell, Daggett, Fromentin, Gailard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Morrill, Otis, Sanford, Storer, Tait, Talbot, Van Dyke, and Williams of Tennessee.

NAYS—Messrs. Barbour, Burrill, Crittenden, Dickerson, Lacock, Macon, Morrow, Roberts, Ruggles, Taylor, Tichenor, Williams of Massachusetts, and Wilson.

On motion by Mr. CAMPBELL, the Committee on Finance, to whom was referred the petition of John Haslett, and also the petition of Hyacinth Laclotte, were discharged from the further consideration thereof respectively.

Mr. CAMPBELL, from the same committee, to whom was referred the bill, entitled "An act for the relief of the houses of Thomas and John Clifford, Elisha Fisher and Company, Thomas Clifford and Son, and Thomas Clifford, of Philadelphia, and Charles Wirgman, of Baltimore;" and also the bill, entitled "An act for the relief of Gad Worthington," reported them severally without amendment.

## BANK OF THE UNITED STATES.

Mr. CAMPBELL, from the same committee, to whom was recommended the memorial of the President and Directors of the Bank of the United States, reported a bill supplementary to the act entitled "An act to incorporate the subscribers to the Bank of the United States," and the bill was read twice by unanimous consent, and considered as in Committee of the Whole; and no amendment having been made thereto, the PRESIDENT reported it to the House; and the bill was amended. Mr. C. also laid on the table the following document:

TREASURY DEPARTMENT, April 7, 1818.

SIR: I have been informed by the president of the Bank of the United States that the board of directors have applied to the Congress of the United States for permission to issue bills and notes signed by other persons than the president and cashier of that bank. The intimate connexion which necessarily exists between that institution and the department of the Executive Government confided to my direction may render it excusable on my part to present to the Committee on Finance, under whose consideration the subject has been placed by the Senate, some of the reasons which appear to be necessarily connected with the application. It is not my intention to urge the sanction of the committee to the particular modification sought by the bank. I shall attempt only to satisfy the committee that, under the existing provisions of the charter, as construed by the corporation, it is impossible to put into circulation an amount of bills of suitable denominations to supply the necessary and indispensable demands of the community.

The president and cashier of the bank have to sign and countersign all the bills of the bank and of its various offices. They have, in addition to the ordinary duties of president and cashier of a bank, to perform all the duties of commissioner of loans for the State of Pennsylvania, and of agents for the payment

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of pensioners of every description for that State. They are necessarily charged with the general superintendence of all the offices established by the bank, from the District of Maine to the State of Louisiana, involving a most extensive correspondence, and imposing upon them an examination of the weekly returns of those offices. This examination is necessarily imposed upon those officers, who are bound to watch over the interests of the bank generally, and to supply the wants of the different offices; to transmit specie where there is a demand for it, and to withdraw it from points where, from the course of trade or other causes, it may have temporarily accumulated. The duty of transmitting the public funds wherever required within the United States demands and receives their unremitting attention. From the view here presented of the various and important duties assigned to them by the charter, many of which are so intimately connected with the Government as to constitute them highly important officers, it will be readily perceived that but a very small portion of their time can be devoted to the mechanical labor of signing bills and notes. It may, indeed, be said that the corporation, having the power of appointing such *officers and servants* as the interest of the institution may require, may appoint other officers, who may be charged with the superintendence of the interests of the institution generally, and of course with the correspondence, and distribution of the capital of the bank among the different offices, according to their various wants and necessities arising out of the course of trade, or any other cause. Such a course might, indeed, be pursued; but it would be an entire inversion of the established principle of action, not only in institutions of this nature, but of right reason, when applied to all associations whatsoever.

The signing of bills and notes is a mere mechanical act. The superintendence of an institution so extensive and complicated, intimately connected not only with the Government, but with all the wants and conveniences of society, especially influencing in a very high degree the commercial transactions of the nation, requires intellects of more than ordinary elevation, and information as various as the wants and conveniences of civilized society. To metamorphose the highest officers of the institution into mere machines, the operations of which are to be confined to tracing certain characters infinitely repeated, whilst subordinate *officers or servants* are invested with duties requiring the highest order of intellect and the most extensive degree of information, would indeed be an inversion of the established ideas of the moral fitness of things.

It is not my intention, nor is it the wish of the bank, to relieve the president and cashier from the mechanical labor of signing bills. This duty will always be performed by them, as far as a due attention to their other and more important duties will permit.

The reasons and facts which I have presented, in order to prove that it is impossible for the president and cashier to sign the bills necessary to the wants and convenience of the community, are supported by the experience of the bank. Twenty offices have been established, and applications for others remain suspended from the impossibility of furnishing them with bills for circulation. Two of those which were organized more than six months past have not yet been supplied with bills to commence operations. Several of those established in the Western country have been so scantily supplied as to render their operations extremely circumscribed. That established at Augusta,

in Georgia, will probably be abandoned, on account of the impossibility of supplying it with bills to make the employment of capital profitable. It is understood that the measure is now under the consideration of the directors. It will be hardly necessary to prove that the failure to supply the different offices with a proper amount of bills of suitable denominations can be the result of nothing but the impossibility of furnishing that supply under the provisions of the charter. The failure must be ascribed to this impossibility, or to the negligence of the officers of the bank. The character and standing of the gentlemen to whom the neglect would be imputed forbid the admission of the charge. It may, indeed, be alleged that the labor of issuing bills will be daily diminished, as the supply will always be increasing. To this it may be answered, that the number of offices for some time to come will be increased, and that, as the labor of signing bills diminishes, the time necessarily devoted to the superintendence of the multiplied and varied concerns of the bank will increase; that, according to the course of trade, bills issued in one section of the Union will accumulate in another; and that, although a portion of those bills may in the ordinary course of trade find their way back, or be diffused over other portions, so as to diminish in a considerable degree such an accumulation, yet a considerable portion of them will remain where they are not wanted, whilst local deficiencies will be created in other places. If the bank is enabled to issue bills so as to meet the demands of the community for them, it will be its interest to supply the local wants thus created by new emissions, rather than to incur the expense and risk of transmitting those which have accumulated in particular districts to where they are wanted. This source of demand for new bills, together with the necessary supplies for lost or worn bills, will find ample employment for two persons who shall be devoted to the issuing of bills. If the bank is enabled by Congress to facilitate the issuing of bills, any surplus which accumulates in particular districts will be destroyed, and new ones issued to supply their place, and circulated where they are demanded. It is the practice with the Bank of England never to reissue their bills. It is not believed that any additional security is derived to the bank or to the community from this practice. It is mentioned simply to present to the mind of the committee the extensive means which that institution possesses of issuing bills. It is confidently believed that neither the governor nor deputy governor of that bank ever signs a bill.

I understand that the proposition of the bank is to authorize the presidents and cashiers of the various offices to issue bills for their offices respectively. This proposition appears to me to be injudicious. The multiplication of signatures upon bills, beyond the necessity of the case, is an evil which ought not to be permitted. It is, however, urged in favor of it that the bills of the offices are intended for local circulation, and that the signatures of the president and cashier of an office will be more likely to be known by their own districts than those of the president and cashier of the bank itself. This argument is specious rather than solid. Not one man in a hundred who receives bills or notes of the bank can have any other knowledge of the handwriting of the persons whose names are signed upon the bills than that which he derives from the frequent examination and comparison of the signatures upon the bills which he receives. It is, moreover, manifest from what has already been stated, and

it is established by universal experience, that bills issued at the offices will circulate in the most distant parts of the nation from the place of their issue. As the organization of the bank becomes more perfect, and the principles upon which it acts become more extensively known; as it will by experience be enabled to correct the eccentricities of its officers, and discard any errors which its own directors may, from inadvertence, or from some real or supposed pressure, have committed, the circulation of its bills will become general, and the idea of locality be entirely laid aside. It would, therefore, in my humble opinion, be unwise to permit the presidents and cashiers of the offices to issue bills under their own signatures alone. Two officers, whose time should be exclusively devoted to signing of bills and notes, with the occasional aid which they would receive from the president and cashier of the bank in signing bills of large denominations, would give to the bank all the facilities which a due regard to the interests of the community can require.

In closing this communication, it may be proper to state that, independent of the convenience of the community and the interest of the bank, the Government itself has a direct interest in conferring upon the bank the authority of issuing notes and bills with more facility than it at present enjoys. According to existing laws, specie and the bills and notes of the Bank of the United States are alone receivable in all payments to the Government. It requires no argument to prove that the contributions of various kinds required by the Government from the citizens cannot at this time be paid in specie. It is not in the power of Congress to give to its citizens this ability. An act of Congress will not bring from foreign regions the gold and silver coin necessary to effect this object. But it can cause to be put in circulation a sufficiency of what it has made a legal tender, to enable the citizens who may owe the Government to discharge their debts. That the necessary supply of this currency has not been furnished is notoriously manifest; that the failure to furnish this supply has been the result of the incapacity of the bank to sign bills according to the provisions of the charter, has, I trust, been satisfactorily established.

The bill now upon your table for the relief of the purchasers of the public land is in a considerable degree the result of that incapacity. It is certainly true that if the banks had not been im providently multiplied in certain sections of the Union, the Bank of the United States and its offices would have consented to receive as specie from the officers of the Government the bills or notes of the local banks, which would have in some degree prevented the pressure which is now operating so oppressively in the northwestern section of the country.

This paper, however, it must be recollected, is no legal tender. It could become so only indirectly, through the agency of the Bank of the United States. However stable the banks in that section might have been under a different state of things than that which unfortunately exists, the people would have been equally unable as at present to discharge their duties to the Government according to law; and this inability would necessarily be ascribable to the incapacity of the bank to sign the amount of bills necessary to enable the community to discharge its debts to the Government. The Congress is now apprized of the emergency. Specie and the bills of the Bank of the United States alone are receivable at the Treasury. Spe-

cie cannot be obtained for that purpose. Bills of the Bank of the United States cannot be put into circulation to a sufficient amount for that object, because the officers of the bank are not able to sign them. The power ought to be given, the bills of other banks ought to be receivable, or further time ought to be allowed the public debtor to make his payments. Sound policy, probably, would require the application of the first and the last of these remedies. The power of issuing bills with more facility would not afford relief so promptly as to supersede the necessity of suspending temporarily the time of payment. The suspension of payment, unaccompanied by other relief, would probably find the public debtors at the expiration of the suspension but little improved in their capacity to discharge their debts.

In addition to the foregoing considerations it may be proper to state that lands to a great amount will be sold in the course of the Summer, Autumn, and Winter of the present year, in the Michigan and Missouri Territories. The bills of the Western banks, which circulate almost exclusively in those Territories, have not that credit and currency in many instances which would justify their receipt at the Treasury if the law permitted it. There is therefore great danger that much loss will be sustained in the sale of those lands for the want of a sound circulating medium in that section of the Union. The losses which the Treasury has already incurred by the receipt of bills and notes of banks which have already failed, or whose credit is doubtful, strongly indicate the necessity of avoiding further loss from that source, even at the risk of incurring a greater in the depreciated price which may consequently be received for the public lands. It has already been ascertained that, of the special deposits received during the years 1815 and 1816, more than \$250,000 are of a description which justifies the most serious apprehension of the eventual loss of the greatest portion of that amount. It is my duty to suggest the propriety of giving more efficient remedies against corporate bodies for the recovery of debts. The power of summoning the debtors of the corporation as garnishers, as in cases of attachment against absent debtors, is respectfully submitted to the consideration of the committee.

I remain, with sentiments of the highest respect,  
your most obedient and very humble servant,

WM. H. CAMPBELL.

Hon. G. W. CAMPBELL, *Chairman Com. Finance.*

FRIDAY, April 10.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom was referred the bill, entitled "An act to establish a port of entry and delivery at Cape Vincent, at the fork of Lake Ontario and the head of the river St. Lawrence;" and the bill, entitled "An act to abolish the port of delivery established at the mouth of Slade's Creek, in the State of North Carolina;" the bill, entitled "An act for the relief of Seth Sprague and others;" and also the bill, entitled "An act for the relief of Joseph Thorn," reported the same severally without amendment.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Thomas Miller and Stephen Baker," reported the same with amendments; which were read.

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The Senate resumed the consideration of the amendment of the House of Representatives to the bill, entitled "An act to make valid certain acts of the justices of the peace in the District of Columbia;" and disagreed thereto.

Mr. BARBOUR presented the memorial of Richard Bland Lee, commissioner under the claims' law, praying additional compensation for his services; and the memorial was read.

Mr. TAIT, from the Committee on Naval Affairs, to whom was referred the resolution directing the completion of the survey of the waters of the Chesapeake Bay, and for the establishment of naval arsenals, and other purposes, reported the same without amendment.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with the resolution of the Senate, requesting me to cause to be laid before them a list of the names of the several agents of Indian affairs, and of the agents of Indian trading-houses, with the pay and emolument of the agents respectively, I now transmit a report from the Secretary of War, which contains the information required.

JAMES MONROE.

WASHINGTON, April 9, 1818.

The Message and accompanying report were read, and referred to the Committee on Military Affairs.

The following Message was also received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

In compliance with a resolution of the Senate respecting the supplies of the Northwestern army, within certain periods therein specified, by contractors, commissaries, and agents, and the expense thereby incurred, I now transmit to them a report from the Secretary of War, which, with the documents accompanying it, will afford the information required.

JAMES MONROE.

APRIL 10, 1818.

The Message, together with the report and accompanying documents, were read.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of John Anderson," reported the same without amendment.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom was referred the bill, entitled "An act making appropriations for the public buildings and for furnishing the Capitol and President's House," reported the same with amendments.

Mr. GOLDSBOROUGH, from the same committee, to whom was referred the bill, entitled "An act to provide for erecting additional buildings for the accommodation of the several Executive departments;" also reported the same with an amendment.

The Senate resumed the consideration of the bill supplementary to the act, entitled "An act to incorporate the subscribers to the Bank of the United States;" and the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the

Whole, the consideration of the bill to suspend for a limited time the sale or forfeiture of lands for failure in completing the payment thereon; and the bill having been amended, the PRESIDENT reported it to the House accordingly, and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to incorporate the Columbian Institute, for the promotion of arts and sciences;" a bill, entitled "An act to increase the pay of the militia while in actual service, and for other purposes;" a bill, entitled "An act to authorize the payment, in certain cases, on account of Treasury notes which have been lost or destroyed;" a bill, entitled "An act for the relief of Benjamin Berry;" a bill, entitled "An act for the relief of Mary Sullivan;" a bill, entitled "An act for the relief of Jonathan Amory, jr., and of the representatives of Thomas C. Amory, deceased;" and also a bill, entitled "An act for the relief of the widow and children of Jacob Graeff, deceased;" in which bills they request the concurrence of the Senate.

The seven bills last mentioned were read, and severally passed to the second reading.

The bill, entitled "An act to incorporate the Columbian Institute, for the promotion of arts and sciences," was read the second time by unanimous consent, and referred to the Committee on the District of Columbia.

The bill, entitled "An act to increase the pay of the militia while in actual service, and for other purposes," was read the second time by unanimous consent, and referred to the Committee on the Militia.

The bill, entitled "An act to authorize the payment, in certain cases, on account of Treasury notes which have been lost or destroyed," was read the second time by unanimous consent, and referred to the Committee on Finance.

The bill, entitled "An act for the relief of Benjamin Berry;" the bill, entitled "An act for the relief of Mary Sullivan;" the bill, entitled "An act for the relief of Jonathan Amory, jr., and of the representatives of Thomas C. Amory, deceased;" and also the bill, entitled "An act for the relief of the widow and children of John Graeff, deceased," were severally read the second time by unanimous consent, and severally referred to the Committee of Claims.

The amendments to the bill, entitled "An act to provide for the publication of the Laws of the United States, and for other purposes," having been reported by the committee, correctly engrossed, the bill was read a third time, as amended, and passed.

The bill, in addition to "An act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1808," and to repeal certain parts of the same, was read a third time, and passed.

The bill for the relief of John Hall, late major of marines, was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act authorizing John Taylor to be placed on the list of navy pensioners;" and on motion of Mr. TAYLOR, the further consideration thereof was postponed until the first Monday in July next.

#### STATISTICS OF THE UNITED STATES.

Mr. BARBOUR, from the committee to whom was referred the resolution authorizing a subscription for five hundred copies of Statistical Annals, proposed to be published by Adam Seybert, and the purchase of a certain number of copies of a Statistical View of the Commerce of the United States, by Timothy Pitkin, made a report, accompanied by a bill authorizing a subscription for the Statistical Annals by Adam Seybert, and the purchase of Pitkin's Statistics; and the report and bill were read, and the bill passed to the second reading.

The report is as follows:

That the manuscript of Dr. Seybert's work has been submitted to their inspection, and, in their opinion, it combines a mass of various and valuable facts and materials, collected with thorough diligence from authentic documents, lucidly and conveniently arranged and methodized. Its main object appears to be to furnish complete information as to the past and present state of the population, navigation, commerce, manufactures, army, navy, public lands, and finances of the United States, and a series of important facts in relation to these and other connected subjects, is condensed into tabular forms and statements, exhibiting in one view an entire and comparative history of each subject. To this work much time, industry, and ability must have been devoted; and it forms a vast depository of information, the whole of which is useful and interesting, and some of which, from the conflagration of the public offices and other untoward events, is now, perhaps, nowhere else preserved. It must be apparent, then, that this work must be deemed necessary and acceptable to every functionary of the Government of the United States, either in its administrative or legislative departments. It was principally for their use the work was designed. It will expedite and facilitate the performance of their respective duties, and it is therefore natural and proper that it should receive their protection and encouragement. It appears to the committee altogether hopeless that the publication of these Statistical Annals can otherwise be obtained. It will not be undertaken by the author at his own risk. From the variety of numerical tables the expense of printing would considerably exceed that of ordinary books; and as profit cannot be expected from the sale of a work which, from its nature, can never be in a certain sense popular, there is no inducement to stimulate the enterprise of a bookseller. Works of a similar description in other countries have frequently been published at the national charge; and surely there is something in the nature of our liberal institutions that ought to induce us, as freely as any other nation, to give publicity to all we have done, as fully to develop the principles of our policy, and to ascertain as clearly the causes of our prosperity. And it may be added that the best mode of deriving benefit from experience, of rendering what is valuable in our system of political economy permanent, and of reforming what is injudicious and erro-

neous, can best be suggested by a systematic collation of the facts and principles on which that system is established.

The most of the foregoing remarks are likewise strictly applicable to Mr. Pitkin's published work, entitled "Commercial Statistics of the United States." It is a work of undoubted merit and utility; its facts are drawn from authentic official documents, and its numerical tables and calculations exhibit great industry and accuracy of research. It is understood that, intrinsically valuable as this work is, it has produced little or no profit to the publisher or the author; and it appears to the committee it would be unjust and ungrateful to distinguish one of these works by the praise and patronage of Congress, and leave the other unnoticed and unrewarded. The committee are therefore of opinion that a subscription for both these works ought to be authorized, and report a bill for that purpose.

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SATURDAY, April 11.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Major Loring Austin and George R. Wells;" the bill, entitled "An act for the relief of Jonathan Amory, junior, and of the representatives of Thomas C. Amory, deceased;" the bill, entitled "An act for the relief of Benjamin Berry;" the bill, entitled "An act for the relief of the widow and children of Jacob Graeff, deceased;" and also the bill, entitled "An act for the relief of Mary Sullivan," reported the same severally without amendment.

The Senate resumed, as in Committee of the Whole, the bill, entitled "An act for the relief of the legal representatives of George Pearson;" and no amendment having been made thereto, the PRESIDENT reported it to the House, and it passed to a third reading.

The bill authorizing a subscription for the Statistical Annals, by Adam Seybert, and the purchase of Pitkin's Commercial Statistics, was read the second time.

The bill to suspend for a limited time the sale or forfeiture of lands, for failure in completing the payment thereon, was read a third time, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act in addition to the 'Act for the punishment of certain crimes against the United States, and to repeal the acts therein described,' together with the amendments reported thereto by the Committee on Foreign Relations; and the amendments having been agreed to, the bill was reported to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill was read a third time as amended.

A message from the House of Representatives informed the Senate that the House insist on their amendment to the bill, entitled "An act to make valid certain acts of the justices of the peace in the District of Columbia." They ask a conference upon the subject of the disagreeing votes of the two Houses, and have appointed

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managers on their part. They have passed a bill, entitled "An act for the relief of Jonas Harrison;" a bill, entitled "An act for the relief of John Dillon;" a bill, entitled "An act for the relief of a company of rangers;" a bill, entitled "An act for the relief of Captain Henry Gist and Captain Benjamin Johnson;" a bill, entitled "An act for the relief of volunteer mounted cavalry;" and a bill, entitled "An act for the relief of Henry King;" in which bills they request the concurrence of the Senate.

The Senate resumed the consideration of the bill supplementary to the act, entitled "An act to incorporate the subscribers to the Bank of the United States;" and, after debate, adjourned to Monday morning.

#### MONDAY, April 13.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the bill, entitled "An act for the relief of John Work," reported the same without amendment.

On motion by Mr. TAIT, the Committee on Naval Affairs, to whom was referred the memorial of Jairus Loomis and James Basset, sailing masters in the Navy of the United States; also the resolution instructing them to inquire into the expediency of providing by law for enforcing the attendance of witnesses before naval courts martial; and also the bill to authorize the establishment of naval depots and dock-yards; together with the Message of the President of the United States of the 23d of March, 1848, upon that subject, were discharged from the further consideration thereof respectively.

The bill, entitled "An act for the relief of Henry King," was read the first and second times by unanimous consent, and referred to the Committee of Claims.

The bill, entitled "An act for the relief of Captain Henry Gist and Captain Benjamin Johnson," was read twice by unanimous consent, and referred to the same committee.

The bill, entitled "An act for the relief of volunteer mounted cavalry," was read twice by unanimous consent, and, on motion by Mr. LACOCK, referred to the Committee on Military Affairs.

The bill, entitled "An act for the relief of a company of rangers," was read twice by unanimous consent, and referred to the same committee.

The bill, entitled "An act for the relief of John Dillon," was read twice by unanimous consent, and referred to the Committee on Finance.

The bill, entitled "An act for the relief of Jonas Harrison," was read twice by unanimous consent, and referred to the same committee.

The amendments to the bill, entitled "An act in addition to the Act for the punishment of certain crimes against the United States, and to repeal the acts therein described," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The bill, entitled "An act for the relief of the legal representatives of George Pearson," was read a third time, and passed.

On motion, it was

*Resolved*, That the Senate *insist* on their disagreement to the amendment of the House of Representatives to the bill, entitled "An act to make valid certain acts of the justices of the peace in the District of Columbia," and agree to the conference proposed thereon.

Mr. DAGGETT, Mr. GOLDSBOROUGH, and Mr. BURRILL were appointed the managers on the part of the Senate.

The Senate resumed the consideration of the bill supplementary to the act, entitled "An act to incorporate the subscribers to the Bank of the United States, [authorizing the appointment of a Vice President and Deputy Cashier, for the greater facility of signing the bills:] and the bill having been amended, on the question, "shall this bill be engrossed and read a third time?" it was determined in the affirmative—yeas 17, nays 14, as follows:

YEAS—Messrs. Barbour, Burrill, Campbell, Crittenden, Daggett, Dana, Dickerson, Eppes, Hunter, King, Leake, Morrow, Otis, Stokes, Storer, Tait, Tichenor.

NAYS—Messrs. Fromentin, Gaillard, Horsey, Lacock, Macon, Noble, Ruggles, Sanford, Smith, Talbot, Van Dyke, Williams of Mississippi, Williams of Tennessee, and Wilson.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom the subject was referred, reported a bill fixing the compensation of Indian agents and factors; and the bill was read twice by unanimous consent.

Mr. BARBOUR, from the Committee on Foreign Relations, to whom was referred the Message from the President of the United States of the 10th March, 1818, respecting a commercial agreement with the Netherlands, reported a bill concerning tonnage and discriminating duties in certain cases; and the bill was read twice by unanimous consent.

The Senate resumed, as in Committee of the Whole, the consideration of the bill to promote the progress of useful arts, and to repeal the acts heretofore made for that purpose, together with the amendments reported thereto by the select committee; and, on motion by Mr. DAGGETT, the further consideration thereof was postponed until the first Monday in July next.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the memorial of John Brooks, of the State of Ohio, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read, and agreed to.

On motion, by Mr. CAMPBELL, the Committee on Finance, to whom was referred the report of the Secretary of the Treasury, prepared in obedience to a resolution of the Senate of the 11th of December, 1817, relative to the prompt settlement of public accounts, were discharged from the further consideration thereof.

Mr. WILLIAMS, of Tennessee, from the managers on the part of the Senate, at the conference



on the amendment of the House of Representatives to the bill, entitled "An act directing the manner of appointing Indian agents, and continuing the act for establishing trading-houses with the Indian tribes," made the following report :

That the committee of conference on the part of the Senate met the committee on the part of the House of Representatives on the disagreement relative to the said amendment, and agreed to recommend to the two Houses—

1. That the Senate recede from their disagreement to the said amendment.

2. That the said bill be further amended, by striking out of the second section thereof, in the first line, the word "first day of April next," and inserting instead "eighteenth instant."

#### ILLINOIS TERRITORY.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States," together with the amendments reported thereto by the Committee on Public Lands.

A motion was made, by Mr. TAIT, to postpone the further consideration thereof until the fourth day of July next.

This motion was debated, and was supported by Mr. TAIT, not from any disposition to oppose the admission of this State into the Union, but on the ground that there was not sufficiently authentic information that its population was forty thousand, as stated from conjecture, or even that its population was sufficient to entitle it to a representative in Congress.

To this argument, Messrs. MORROW, TALBOT, and BARBOUR, replied, and opposed the postponement, believing the evidence on this head to be so strong as to admit of no doubt.

The question on the proposed postponement was decided in the negative—yeas 4, nays 29, as follows :

YEAS—Messrs. Daggett, King, Sanford, and Tait.  
NAYS—Messrs. Barbour, Burrill, Campbell, Crittenden, Dana, Dickerson, Eppes, Fromentin, Horsey, Hunter, Johnson, Lacock, Leake, Macon, Morrill, Morrow, Noble, Otis, Ruggles Smith, Stokes, Storer, Talbot, Taylor, Tichenor, Van Dyke, Williams of Mississippi, Williams of Tennessee, and Wilson.

The amendments having been agreed to, and the bill further amended, the bill was reported to the House accordingly ; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended.

TUESDAY, April 14.

On motion, by Mr. SANFORD, the Committee on Pensions were directed to inquire into the propriety of granting a pension to George Bell.

Mr. HORSEY submitted the following motion for consideration :

*Resolved*, That the Secretary of the Treasury procure, and lay before the Senate of the United States,

immediately after the commencement of the next session of Congress, a statement showing what sum was actually paid by the subscribers, on account of the capital stock of the Bank of the United States, at the several times of payment prescribed by the charter, in gold and silver coin, and what sum in the funded debt of the United States. Also, showing the amount of capital stock of the said bank, as the same may then be, specifying what proportion thereof is of gold and silver coin, and what proportion is of the funded debt. Also, showing the amount of the debts due to the said bank, specifying the amount due at Philadelphia, and the amount due at the offices of discount and deposit, respectively. Also, showing the amount of the money deposited, specifying the amount thereof deposited at Philadelphia, and the amount deposited at the offices of discount and deposit, respectively, and discriminating between the amount of the deposits made by individuals, and the amount made on account of the public. Also, showing the notes in circulation, specifying the amount payable at the bank in Philadelphia, and the amount payable at the offices of discount and deposit, respectively.

Mr. BARBOUR presented the petition of John B. Timberlake, praying provision for an equitable adjustment of his accounts, as purser, with the Navy Department ; and the petition was read, and referred to the Committee on Naval Affairs.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom was referred the bill, entitled "An act respecting the organization of the Army, and for other purposes," reported the same with amendments ; which were read.

The Senate resumed the consideration of the committee of conference on the amendment of the House of Representatives to the bill, entitled "An act directing the manner of appointing Indian agents, and continuing the act for establishing trading-houses with the Indian tribes," recommending to the two Houses—

1st. That the Senate *recede* from their disagreement to the said amendment.

2d. That the said bill be further amended, by striking out of the second section thereof, line one, the words, "first day of April next," and inserting instead, "eighteenth instant."

Whereupon, *Resolved*, That they disagree to the first recommendation of the committee of conference ; that they agree to the second recommendation of the said committee ; and that the bill be amended accordingly.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act fixing the time for the next meeting of Congress ;" and the bill having been amended, the PRESIDENT reported it to the House accordingly ; and the amendment being concurred in, was ordered to be engrossed and the bill read a third time as amended.

Mr. EPPES presented the memorial of Daniel Brent and others, clerks employed in the Executive offices of the Government, praying the attention of Congress to the importance of their duties, and the inadequacy of their compensation ; and the memorial was read.

Mr. MORROW, from the Committee on Public

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Lands, to whom was referred the bill, entitled "An act to continue in force an act, entitled 'An act relating to settlers on lands of the United States,'" reported the same without amendment.

Mr. MORRIL, from the Committee of Claims, to whom was referred the petition of Samuel Smith, attorney for Elisha Allen, made a report, accompanied by a resolution, that the prayer of the petitioner ought not to be granted. The report and resolution were read.

The amendments to the bill, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," having been reported by the committee correctly engrossed, the bill was read a third time as amended and passed.

The bill, supplementary to the act, entitled "An act to incorporate the subscribers to the Bank of the United States," was read a third time, and passed—yeas 18, nays 15, as follows:

YEAS—Messrs. Barbour, Burrill, Campbell, Crittenden, Daggett, Dana, Dickerson, Eppes, Hunter, King, Lenke, Morrow, Otis, Stokes, Storer, Tait, Taylor, and Tichenor.

NAYS—Messrs. Fromentin, Gaillard, Goldsborough, Horsey, Lacock, Morrill, Noble, Ruggles, Sanford, Smith, Talbot, Van Dyke, Williams of Mississippi, Williams of Tennessee, and Wilson.

So it was *Resolved*, That this bill pass, and that the title thereof be "An act in addition to 'An act to incorporate the subscribers to the Bank of the United States.'"

The Senate resumed, as in Committee of the Whole, the consideration of the bill concerning tonnage and discriminating duties in certain cases; and the bill having been amended, it was reported to the House; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill authorizing a subscription for the Statistical Annals, by Adam Seybert, and the purchase of Pitkin's Commercial Statistics; and the bill having been amended, it was reported to the House; and the amendments being concurred in, the bill was ordered to be engrossed, and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill fixing the compensation of Indian agents and factors; and the bill having been amended, it was reported to the House accordingly; and the amendments being concurred in, the bill was ordered to be engrossed and read a third time.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Major General Brown," together with the amendments reported thereto by the Committee of Claims; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed and the bill be read a third time as amended.

Mr. CAMPBELL, from the Committee on Finance, to whom was referred the bill, entitled "An act for the relief of John Dillon;" also, the bill, entitled "An act for the relief of Jonas Harrison;" reported the same without amendment.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Gad Worthington," and no amendment having been made thereto, it was reported to the House, and passed to the second reading.

Mr. STORER, from the Committee on the Militia, to whom was referred the bill, entitled "An act to increase the pay of the militia while in actual service, and for other purposes," reported the same without amendment.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to establish a port of entry and delivery at Cape Vincent, at the fork of Lake Ontario and the head of the river St. Lawrence," and no amendment having been made thereto, it was reported to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to abolish the port of delivery established at the mouth of Slade's Creek, in the State of North Carolina;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Seth Sprague and others;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Thomas Miller and Stephen Baker," together with the amendments reported thereto by the Committee of Claims; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed and the bill was read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Anderson; and no amendment having been made thereto, the PRESIDENT reported it to the House, and, on the question, "Shall this bill be read a third time?" it was determined in the negative; so it was rejected.

A message from the House of Representatives informed the Senate that the House recede from their amendment, to which the Senate have disagreed to the bill, entitled "An act directing the manner of appointing Indian agents, and continuing the 'Act for establishing trading-houses with the Indian tribes,'" and that they agree to the amendment proposed to the said bill in the second recommendation. They concur in the amendments of the Senate to the bill, entitled "An act to provide for the publication of the laws of the

United States, and for other purposes," except the seventh and eighth, to which they disagree. They have passed the bill, entitled "An act for the relief of Isaac Briggs," with an amendment, in which they request the concurrence of the Senate. They have also passed a bill, entitled "An act for the relief of John B. Dabney;" a bill, entitled "An act for the relief of James Mackay of the Missouri Territory;" and a bill, entitled "An act for the relief of Jonathan D. Essary and John Seybold;" in which bills they request the concurrence of the Senate.

The three bills last mentioned were read, and severally passed to the second reading.

The bill, entitled "An act for the relief of John B. Dabney," was read the second time by unanimous consent, and referred to the Committee of Claims.

The bill, entitled "An act for the relief of Jas. Mackay, of the Missouri Territory," was read the second time by unanimous consent, and referred to the Committee on Public Lands.

The bill, entitled "An act for the relief of Jonathan D. Essary and John Seybold," was read the second time by unanimous consent, and referred to the same committee.

The Senate proceeded to consider the amendment of the House of Representatives to the bill, entitled "An act for the relief of Isaac Briggs," and non-concurred therein.

The Senate proceeded to consider their amendments, disagreed to by the House of Representatives to the bill, entitled "An act to provide for the publication of the laws of the United States, and for other purposes."

Whereupon, *Resolved*, That they recede from their seventh amendment to the said bill, and insist on their eighth amendment, disagreed to by the House of Representatives.

On motion, by Mr. CAMPBELL, the committee on the memorial of the State of Tennessee, respecting claims to lands in that State, who were instructed to inquire into the propriety of making a reservation of land for the establishment of a military depot, armory, and foundry, on the waters of Shoal creek, in the State of Tennessee, were discharged from the further consideration thereof.

#### WEDNESDAY, April 15.

Mr. WILLIAMS, of Tennessee, from the Committee on Military Affairs, to whom were referred the bill, entitled "An act for the relief of volunteer mounted cavalry;" and also the bill, entitled "An act for the relief of a company of rangers," reported the same, severally, without amendment.

Mr. MORRILL, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Captain Henry Gist, and Captain Benjamin Johnson;" and also the bill, entitled "An act for the relief of Henry King," reported the same, severally, without amendment.

Mr. GOLDSBOROUGH submitted the following motion for consideration :

*Resolved*, That the President of the United States be requested to direct the proper officer to lay before the Senate, at an early period of their next session, a list of the useless officers of the customs, with the names of their offices, salaries, emoluments, and the places where held; specifying such as it may be proper to suppress and discharge in consequence of their unproductiveness, the inconsiderable services rendered, or of any other cause.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of certain friendly Creek Indians, of the mixed blood," reported the same with amendments; which were read.

The Senate resumed the consideration of the motion submitted on the 14th instant, and the same having been modified, was agreed to as follows:

*Resolved*, That the Secretary of the Treasury procure, and lay before the Senate of the United States, immediately after the commencement of the next session of Congress, a statement showing what sum was actually paid by the subscribers, on account of the capital stock of the Bank of the United States, at the several times of payment prescribed by the charter, in gold and silver coin, and what sum in the funded debt of the United States. Also, showing the amount of the capital stock of the said bank, as the same may then be, specifying what proportion thereof is of gold and silver coin, and what proportion is of the funded debt. Also, showing the amount of the debts due to the said bank, specifying the amount due at Philadelphia, and the amount due at the offices of discount and deposit, respectively. Also, showing the amount of the money deposited, specifying the amount thereof deposited at Philadelphia, and the amount deposited at the offices of discount and deposit, respectively, and discriminating between the amount of the deposits made by individuals, and the amount made on account of the public. Also, showing the notes issued and the notes in circulation, specifying the amount payable at the bank in Philadelphia, and the amount payable at the offices of discount and deposit, respectively.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Joseph Thorn;" and no amendment having been made thereto, the President reported it to the House; and, on the question, "Shall this bill be read a third time?" it was determined in the negative. So it was rejected.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Thomas and John Clifford, Elisha Fisher and Company, Thomas Clifford and Son, and Thomas Clifford of Philadelphia, and Charles Wirgman of Baltimore;" and the bill having been amended, the President reported it to the House accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill was read a third time as amended.

The bill, entitled "An act for the relief of Gad Worthington," was read a third time; and, on the question, "Shall this bill pass?" it was determined in the negative. So the bill was rejected.

The bill, entitled "An act for the relief of Seth

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Sprague and others," was read a third time, and passed.

The bill, entitled "An act to establish a port of entry and delivery at Cape Vincent, at the fork of Lake Ontario, and the head of the river St. Lawrence," was read a third time, and passed.

The bill to abolish the port of delivery established at the mouth of Slade's creek, in the State of North Carolina, was read a third time, and passed.

The bill authorizing a subscription for the Statistical Annals, by Adam Seybert, and the purchase of Pitkin's Commercial Statistics, was read a third time, and passed.

The bill concerning tonnage and discriminating duties, in certain cases, was read a third time, and passed.

The bill fixing the compensation of Indian agents and factors, was read a third time, and passed.

The amendments to the bill, entitled "An act for the relief of Major General Brown," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The amendment to the bill, entitled "An act fixing the time for the next meeting of Congress," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The amendments to the bill, entitled "An act for the relief of Thomas Miller and Stephen Baker," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to provide for erecting additional buildings for the accommodation of the several Executive Departments," together with the amendment reported thereto by the Committee on the District of Columbia; and the amendment having been disagreed to,

On motion, by Mr. DAGGETT, to strike out of section one, lines 6 and 7, "north of the buildings at present occupied by those Departments, and on a line parallel therewith;" and to insert, "on any of the public squares, or open spaces, as shall be directed by the President of the United States, east of Sixth street, west, except the Capitol Square;" it was determined in the negative—yeas 16, nays 19, as follows:

YEAS—Messrs. Burrill, Crittenden, Daggett, Dana, Dickerson, Gaillard, Hunter, Lacock, Morrill, Roberts, Sanford, Smith, Stokes, Tait, Tichenor, and Wilson.

NAYS—Messrs. Barbour, Campbell, Eppes, Fromentin, Goldsborough, Horsey, Johnson, King, Leake, Macon, Morrow, Noble, Otis, Ruggles, Storer, Talbot, Taylor, Williams of Mississippi, and Williams of Tennessee.

And no amendment having been made to the bill, it was reported to the House; and, on the question, "Shall this bill be read a third time?" it was determined in the affirmative—yeas 25, nays 10, as follows:

YEAS—Messrs. Barbour, Campbell, Daggett, Eppes,

Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Macon, Morrow, Otis, Roberts, Ruggles, Sanford, Stokes, Storer, Tait, Talbot, Taylor, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Burrill, Crittenden, Dana, Dickerson, Lacock, Morrill, Noble, Smith, Tichenor, and Wilson.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to increase the duties on certain manufactured articles imported into the United States;" a bill, entitled "An act making the port of Bath, in Massachusetts, a port of entry for ships or vessels arriving from the Cape of Good Hope, and from places beyond the same, and for establishing a collection district, whereof Belfast shall be the port of entry;" a bill, entitled "An act to increase the compensation of deputy postmasters in certain cases;" a bill, entitled "An act providing for the deposit of wines and distilled spirits in public warehouses;" a bill, entitled "An act to increase the duties on iron in bars and bolts, iron in pigs, castings, nails, and alum;" and, also, a bill, entitled "An act supplementary to an act, entitled 'An act to regulate the collection of duties on imports and tonnage, passed the second day of March, 1791,'" in which bills they request the concurrence of the Senate.

The six bills last mentioned were read, and severally passed to the second reading.

The bill, entitled "An act to increase the duties on iron in bars and bolts, iron in pigs, castings, nails, and alum;" the bill, entitled "An act to increase the duties on certain manufactured articles imported into the United States;" the bill, entitled "An act making the port of Bath, in Massachusetts, a port of entry for ships or vessels arriving from the Cape of Good Hope, and from places beyond the same, and for establishing a collection district, whereof Belfast shall be the port of entry; and also, the bill, entitled "An act providing for the deposit of wines and distilled spirits in public warehouses," were severally read the second time by unanimous consent, and severally referred to the Committee on Commerce and Manufactures.

The bill, entitled "An act supplementary to an act, entitled 'An act to regulate the collection of duties on imports and tonnage, passed the second day of March 1791,'" was read the second time by unanimous consent, and referred to the Committee on Finance.

The bill, entitled "An act to increase the compensation of deputy postmasters in certain cases," was read the second time by unanimous consent, and referred to the Committee on Post Offices and Post Roads.

#### FUNDED DEBT.

The PRESIDENT communicated a report of the Secretary of the Treasury, made in obedience to a resolution of the Senate, of the 4th instant, requiring him to report to the Senate the amount of the funded debt of the United States, bearing an interest of seven, six, and three per cent., which has been paid by the subscribers towards

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the capital of the Bank of the United States; distinguishing the amount of each which has been paid upon the several instalments; stating the sums and species of funded debt sold by the Bank; how much thereof was redeemed by the United States; how much has been sold without the United States; and how much is now held by the bank; and the report was read, as follows:

TREASURY DEPARTMENT, April 15, 1818.

SIR: In obedience to a resolution of the Senate of the 4th of April, instant, requiring the Secretary of the Treasury to report to the Senate the amount of the funded debt of the United States, bearing an interest of seven, six, and three per cent., which has been paid by the subscribers towards the capital of the Bank of the United States, distinguishing the amount of each which has been paid upon the several instalments; stating the sums and species of funded debt sold by the bank; how much thereof was redeemed by the United States; how much has been sold without the United States; and how much is now held by the bank; I have the honor to submit the statements A and B, and such parts of the correspondence between this Department and the president of the bank [Nos. 1, 2, 3, and 4] as relate to this subject; which, together, furnish all the information required by the resolution, which it is in the power of the Department to furnish.

It may be proper, however, to observe, that the bank had sent to Europe two millions of the funded debt, which had been paid by the subscribers, which was intended to be sold or pledged for the purpose of raising specie. When the redemption of the stock held by the bank was about to be effected, it was not known whether the whole or any part of the stock in Europe had been sold. The Board of Directors concluded that stock sold by the bank without the United States, in conformity with the charter, could not be redeemed at the will of the Government; and that, as as it was probable that the stock then in Europe had been sold or pledged, it could not be redeemed. This construction was rejected by the Treasury; but an offer was made to receive from the bank an equal amount of the same kind of stock, provided the bank would, as the agent of the Commissioners of the Sinking Fund, purchase it at its own expense, and deliver it at par to the Government. This proposition was accepted by the bank, and has been carried into effect.

The only sum remaining in the hands of the bank, subject to redemption at the will of the Government, is the \$421,668 53, admitted to be in the hands of the bank, by the letter of the president, (marked No. 4.)

This amount will be immediately redeemed according to the provisions of the charter.

I have the honor to be, your most obedient and very humble servant,

WM. H. CRAWFORD.

HON. JOHN GAILLARD,

*President pro tem. of the Senate.*

A.

The Register begs leave to report to the Secretary of the Treasury that the funded debt of the United States, on the 31st December, 1817, is stated at the following sums:

Six per cent. stocks	-	-	-	\$70,011,081	74
Three per cents.	-	-	-	13,464,862	35
Seven per cents.	-	-	-	8,630,879	49
				92,106,823	58

That the following sums were extinguished of the public funded debt, by payments made by the subscribers towards the capital of the Bank of the United States:

Six per cent. stocks	-	-	-	\$11,471,256	24
Three per cents.	-	-	-	2,253,221	45
Seven per cents.	-	-	-	332,984	60
Old six per cent. and deferred stocks, unredeemed amounts	-	-	-	107,916	95
				14,165,379	24

That the statement from the Bank of the United States, which accompanies this report, and is respectfully referred to, exhibits the amount received from the subscribers to the said institution on account of the several instalments, and exhibits the sum and species of funded debt sold by the bank without the United States, and of the replacing of the same by purchase, and included in the sum herein stated of \$11,471,256 24 six per cent. stocks, as more particularly explained by the bank in their note at the foot of the said statement.

That the foregoing sums of	-	-	-	\$92,106,823	58
And	-	-	-	14,165,379	24
With the 5 per cent. loan of	-	-	-	7,000,000	00
And, extinguished by purchases, (other than the instalments paid to the Bank of the United States, before stated,) as per accounts settled at the Treasury	-	-	-	1,716,725	86
Amount to	-	-	-	114,988,928	68
Add reimbursement of old six per cent. and deferred stocks in 1817	-	-	-	1,003,998	34
And temporary loans paid off in 1817	-	-	-	550,000	00
				117,142,927	02

Deduct the amount of stock issued on the redemption of Treasury notes in the year 1817	-	-	-	1,335,121	54
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Leaves the amount of the funded debt, on the 1st January, 1817, including temporary loans, as stated on the 28th November, 1817, and referred to by the Secretary of the Treasury in his report, dated the 5th December, 1817, to Congress - - - 115,807,805 48

*Note.*—It will be perceived, upon a comparison of the statement made by the Bank of the United States with this statement, that there is a variation in the amount of the six per cent. stock of \$43,767 13, stated less by the bank than in this statement, and which, on re-examination, may affect the balance of stock remaining in the possession of the bank in six per cent. stock, stated at \$316,589 33.

Respectfully submitted,

JOSEPH NOURSE, *Register.*

TREASURY DEPARTMENT,  
*Register's Office, April 14, 1818.*

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B.—A Statement of Funded Debt of the United States, received on account of the respective instalments to the capital of the Bank of the United States, and of the disposition thereof.

Instalments of Funded Debt, &c.	Six per cents.	Three per cents.	Seven per cents.	Old six per cents.	Deferred six per cents.
Received on account of the first instalment -	\$6,173,878 46	\$1,092,109 19	\$65,221 52	\$38,217 36	\$23,006 54
Received on account of the second instalment -	5,127,949 64	1,136,725 14	232,925 62	335,707 06	135,649 05
Received on account of the third instalment -	442,250 34	165,107 45	35,167 46	340,622 29	42,427 81
Totals -	\$11,744,078 44	\$2,393,941 78	\$333,314 60	\$714,546 71	\$201,083 40
Of the above, there has been redeemed by the United States -	\$9,427,489 11	\$2,253,221 45	\$332,984 60	\$374,196 35	\$158,764 31
Sold in London -	(a) 2,000,000 00				
In possession of the Bank of the United States, redeemable at the will of the Government of the United States -	316,569 33	140,720 33	330 00	340,350 36	42,319 09
Totals -	\$11,744,078 44	\$2,393,941 78	\$333,314 60	\$714,546 71	\$201,083 40

(a) This sum, pledged in London for the purpose of procuring specie for the bank, and sold there, is redeemable at the period stated in the certificates of the said stock; but as the Secretary of the Treasury, in behalf of the Commissioners of the Sinking Fund, claimed the right of redemption at the will of the Government, the bank, in conformity to the compromise proposed by the Secretary of the Treasury, in behalf of the Commissioners of the Sinking Fund, did purchase, as the agent of the said Commissioners, an equal amount of similar stock, and delivered the same at the par value thereof, the bank paying the difference between the par value and the actual cost of the said stock, conditioned that the terms of redemption of the two millions sold in London should be according to the

periods stated in the certificates thereof; which agreement has been duly confirmed by the Secretary of the Treasury.

W. JONES, *Pres't.*

BANK OF THE U. S., April 9, 1818.

No. 1.

TREASURY DEPARTMENT,

June 30, 1817.

SIR: To enable the Commissioners of the Sinking Fund to redeem the debt held by the bank, it will be necessary to transmit to this office a descriptive list, showing the amount of the different descriptions in its possession.

Upon the receipt of this list, a warrant will issue at the Treasury in favor of the bank, bearing date on the first day of July of the present year. The warrants for the amount sent to Europe, and directed to be sold, will be transmitted to the bank as soon as it shall have completed the purchase of an equal amount.

An impression has hitherto prevailed, that the seven per cent. stock subscribed to the bank could not be redeemed under the existing law, as the rate to which the Commissioners are limited in their purchases is below that to which it was subscribed to the bank; but, upon a more deliberate examination of the provisions of the third section of the act to provide for the reduction of the public debt, doubts have arisen on the subject. The use of the words "purchase and redemption," in that section, presents rather a confused idea, as there is a manifest distinction between the terms, both in theory and practice.

The question will be more deliberately examined, and the result communicated to the bank before the warrants are issued. I have the honor to be, &c.

WM. H. CRAWFORD.

W. JONES, Esq., *Pres't U. S. Bank.*

No. 2.

BANK OF THE U. S., July 3, 1817.

SIR: I have had the honor to receive your letter of the 30th ultimo, and now transmit the enclosed descriptive list of the funded debt held by the bank, agreeably to your request; which list includes the two millions sent by Mr. Sergeant, to wit:

In 6 per cent. stock of 1814 . . . .	\$7,236 83
6 per cent. stock of 1815 . . . .	392,886 82
6 per cent. stock of eleven million loan . . . .	329,450 00
6 per cent. stock of seven and a half million loan . . . .	122,176 64
6 per cent. stock of sixteen million loan . . . .	926,068 34
6 per cent. stock of ten million loan . . . .	68,376 47
6 per cent. stock of six million loan . . . .	153,804 90

\$2,000,000 00

Owing to the irregularity of some of the Commissioners, the negligence of others, and the want of information from some of the loan offices, as to the Commissioners by whom the stock was transmitted in order to be transferred to the bank, the amount of the funded debt is yet imperfect, and not sufficiently defined to enable the bank to give an accurate detailed list. In many cases surplus sums have been delivered to the Commissioners, owing to the distance between the places of subscription and the loan offices; and, in many of these cases, the Commissioners have errone-



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ously transferred the whole amount to the bank instead of the specific sum subscribed, and of course the bank will have to retransfer these surpluses to the subscribers. In other cases deficiencies appear, and, until these errors can be corrected, the statement will exhibit but an approximation, which, however, cannot be far from the truth.

Some funded debt will no doubt be paid on account of the third instalment, and as soon as it may be practicable to furnish a complete and correct statement of the whole of the funded debt received on account of the capital stock of the bank, it shall be transmitted to the Department. The paper herewith enclosed, and the explanations which I have the honor now to submit, will exhibit all the information on the subject which it is at this time in the power of the bank to afford.

I have the honor to be, with great respect, sir, your obedient servant,  
W. JONES, *Pres't.*

Hon. W. H. CRAWFORD.

No. 3.

TREASURY DEPARTMENT,  
April 6, 1818.

SIR: By referring to your statement of the Bank of the United States of the 23d ultimo, it appears that there is in possession of the bank funded debt of the United States, of various descriptions, four hundred and twenty-one thousand six hundred and sixty-eight dollars and fifty-eight cents. As the same statement presents an item of funded debt pledged as security for bills and notes discounted, it is presumed that the former must be stock paid to the bank by the subscribers. The amount held in Europe is also stated to be \$2,954,264 26. I will thank you to inform me, as early as possible, whether the first item, and the difference between the last-mentioned sum and \$2,000,000, is not stock held by the bank, subject to the right of redemption secured to the United States under the charter.

I will also thank you to give me such information, in conformity with the enclosed resolution of the Senate, as you can readily furnish. I am, &c.

WM. H. CRAWFORD.

WM. JONES, Esq., *Pres't Bank U. S.*

No. 4.

BANK OF THE U. S., April 9, 1818.

SIR: I have had the honor to receive your letter of the 6th instant, and hasten to submit the information therein required.

The statement herewith enclosed contains all the information required by the resolution of the Senate of the 4th instant, and also exhibits the actual amount of the balance of funded debt subscribed by individuals, companies, and corporations, to the capital of the bank, and now remaining in its possession, redeemable at the will of the Government.

The statement of the 23d ultimo, to which you refer, exhibits the sum of \$421,668 58,\* which is the actual

value of the balance abovementioned, reduced according to the rates at which the several species of stock were subscribed.

The item in the above statement designated "bills discounted on personal security and pledged funded debt," is stock belonging to and standing in the name of the borrowers, and held by the bank as collateral security for the payment of their respective obligations.

The amount stated to be pledged in Europe is the two millions of six per cent. stock originally pledged and ordered to be sold in London; the sale had not been finally closed at the last dates received, but was progressing as fast as the partial demand for our stocks would admit. The last price quoted is 104½, including dividend. This item in the statements of the bank rendered to the Treasury remains unaltered, waiting for the final account of sales, and the orders to transfer the balance of the stock to the European purchasers.

The \$54,267 26 included in that item is not in fact funded debt, but the premium paid by the bank on the two millions purchased under the compromise with the Commissioners of the Sinking Fund, and charged in that item until the final account of the sale of the two millions in London shall be received, from which it is hoped the bank may be reimbursed.

I have the honor to be, with the highest respect, sir, your obedient servant,

W. JONES, *Pres't.*

Hon. WM. H. CRAWFORD,  
*Secretary of the Treasury.*

THURSDAY, April 16.

Mr. WILSON, from the Committee of Claims, to whom was referred the petition of Lieutenant Samuel Brown, made a report, accompanied by a resolution, that the petitioner have leave to withdraw his papers. The report and resolution were read.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom was referred the bill, entitled "An act to increase the duties on iron in bars and bolts, iron in pigs, castings, nails, and alum," reported the same without amendment.

He also reported the bill, entitled "An act making the port of Bath, in Massachusetts, a port of entry for ships or vessels arriving from the Cape of Good Hope, and from places beyond the same, and for establishing a collection district, whereof Belfast shall be the port of entry," without amendment.

The Senate resumed the consideration of the motion of the 15th instant, in relation to offices of the customs; and the same having been modified, was agreed to as follows:

*Resolved*, That the President of the United States be requested to direct the proper officer to lay before the Senate, at an early period of their next session, a list of such offices of the customs, with the name of their officers, salaries, emoluments, and the places where held, as it may be proper to suppress and discharge, in consequence of their unproductiveness, the inconsiderable services rendered, or of any other cause.

Mr. TAIT submitted the following motion for consideration:

*Resolved*, That the President of the United States

\* The actual value of the stock described in the last item of the enclosed statement, at the rate at which it was subscribed, is \$436,156 54; the difference between this sum and that in the statement of the 23d ultimo, \$14,487 96, is not regularly accounted for by the Commissioners, but the whole is included in the statement now rendered.

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be requested to cause to be laid before the Senate, as early as possible in the next session, a full statement respecting the navy pension fund; specifying particularly the captures from which the said fund has been formed; how much from each; and at what times received; in what stocks the moneys belonging to said fund have been vested; at what times, and by whom as agent; what has been the annual income from the stocks belonging to said fund, and what has been done with the surpluses, if any, after paying off the navy pensioners.

The bill entitled "An act to provide for erecting additional buildings for the accommodation of the several Executive departments," was read a third time, and passed.

The amendments to the bill, entitled "An act for the relief of the houses of Thomas and John Clifford, Elisha Fisher and Company, Thomas Clifford and Son, and Thomas Clifford of Philadelphia, and Charles Wirgman of Baltimore," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the resolution directing the completion of the survey of the waters of the Chesapeake Bay, and for the establishment of naval arsenals, and other purposes; and the resolution having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed and the resolution be read a third time as amended.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of John B. Dabney," reported the same without amendment.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Major Loring Austin and George R. Wells," and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Benjamin Berry;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it was passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Jonathan Amory, jr., and of the representatives of Thomas C. Amory, deceased;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House; and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making appropriations for the public buildings

and for furnishing the Capitol and President's House," together with the amendments reported thereto by the Committee on the District of Columbia; and the amendments having been agreed to with a further amendment—

On motion by Mr. LACOCK, to strike out from the end of the sixth line of the first section, to the end of the ninth line, as follows:

"For procuring materials, laying the foundation, and other preparations for the centre building of the Capitol, one hundred thousand dollars."

It was determined in the negative—yeas 6, nays 24, as follows:

YEAS—Messrs. Eppes, Lacock, Morrow, Stokes, Taylor, and Wilson.

NAYS—Messrs. Barbour, Burrill, Crittenden, Daggett, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Leake, Macon, Morrill, Otis, Roberts, Sanford, Smith, Tait, Talbot, Tichenor, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

The bill was then reported to the House amended as follows:

Strike out the 19th, 20th, and 21st lines of the first section.

Sec. 1, line 26, strike out "thirty," and insert "twenty."

Same section, line 27, after "dollars," insert, "for making good a deficiency in the appropriation of the past year for furnishing the President's House, ten thousand dollars."

Sec. 2, line 5, strike out "presiding officer thereof," and insert, "Vice President of the United States."

The amendments having been concurred in, Mr. MACON moved to strike out "for furnishing the President's House, twenty thousand dollars."

This motion was advocated by Mr. MACON and Mr. EPPES, at some length, and briefly by Mr. WILSON; and opposed by Mr. KING and Mr. BARBOUR; after which the question was taken on the motion and decided in the negative—yeas 11, nays 22, as follows:

YEAS—Messrs. Burrill, Crittenden, Dickerson, Eppes, Macon, Morrow, Ruggles, Talbot, Taylor, Tichenor, and Wilson.

NAYS—Messrs. Barbour, Daggett, Fromentin, Gaillard, Goldsborough, Horsey, Hunter, Johnson, King, Lacock, Leake, Morrill, Otis, Roberts, Sanford, Smith, Stokes, Storer, Tait, Van Dyke, Williams of Mississippi, and Williams of Tennessee.

The amendments were then ordered to be engrossed and the bill was read a third time as amended.

FRIDAY, April 17.

A message from the House of Representatives informed the Senate that the House have passed the bill which originated in the Senate, entitled "An act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1808, and to repeal certain parts of the same," with amendments, in which they request the concurrence of the Senate. They have passed a bill, entitled "An

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The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making appropriations for the public buildings

act to continue in force, from and after the thirtieth of June, 1819, until the thirtieth of June, 1826, the fourth paragraph of the first section of the act, entitled 'An act to regulate the duties on imports and tonnage, and for other purposes;' in which bill they request the concurrence of the Senate.

The bill last mentioned was read twice by unanimous consent, and referred to the Committee on Commerce and Manufactures.

Mr. SANFORD, from said committee, reported the said bill without amendment.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord 1808, and to repeal certain parts of the same." Whereupon,

*Resolved*, That they concur therein.

Mr. VAN DYKE presented the petition of Thos. Fletcher, Sidney Gardiner, John Stoddart, and Rufus Tyler, of the city of Philadelphia, proprietors of a new and useful improvement for making screws of wire, commonly called "wood screws," praying a specific duty may be laid on the importation of such articles; and the petition was read.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom was referred the bill, entitled "An act to increase the duties on certain manufactured articles imported into the United States;" and also the bill, entitled "An act providing for the deposit of wines and distilled spirits in public warehouses," reported them severally, without amendment.

Mr. GOLDSBOROUGH, from the Committee on the District of Columbia, to whom was referred the bill, entitled "An act to incorporate the Columbian Institute for the promotion of arts and sciences," reported the same without amendment.

The Senate resumed the consideration of the motion of the 16th instant, requesting a full statement respecting the navy pension fund, to be laid before the Senate as early as possible in the next session; and agreed thereto.

The Senate resumed the consideration of the report of the Committee of Claims, to whom was referred the petition of Lieutenant Samuel Brown; and in concurrence therewith, the petitioner had leave to withdraw his papers.

The bill entitled "An act for the relief of Mary Sullivan," was read a third time, and passed.

The bill entitled "An act for the relief of Jonathan Amory, jr., and of the representatives of Thomas C. Amory, deceased," was read a third time, and passed.

The bill entitled "An act for the relief of Benjamin Berry," was read a third time, and passed.

The bill entitled "An act for the relief of Major Loring Austin and George R. Wells," was read a third time, and passed.

Mr. LACOCK submitted the following resolution for consideration, which was read and passed to the second reading:

*Resolved*, That Robert Tweedy, Tobias Simpson,

and George Hicks, assistants to the Sergeant-at-Arms and Doorkeeper to the Senate, be paid, out of the contingent fund, two dollars per day for each day they may have attended the Senate during the present session of Congress; and that Charles Tims be also allowed two dollars per day for his attendance during the present session of Congress.

The amendments to the bill entitled "An act making appropriations for the public buildings and for furnishing the Capitol and President's House," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and passed.

The amendments to the resolution directing the completion of the survey of the waters of the Chesapeake Bay, and for the establishment of naval arsenals, and for other purposes, having been reported by the committee correctly engrossed, the resolution was read a third time as amended, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Work;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act respecting the organization of the Army, and for other purposes," together with the amendments reported thereto by the Committee on Military Affairs; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to continue in force an act, entitled 'An act relating to settlers on lands of the United States;' and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John Dillon;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Jonas Harrison;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of volunteer mounted cavalry;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of a company of rangers;" and, on motion by Mr. WILLIAMS, of Tennessee, the

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further consideration thereof was postponed until the first Monday in July next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Captain Henry Gist and Captain Benjamin Johnson;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill be read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to increase the pay of the militia while in actual service, and for other purposes;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of the widow and children of Jacob Graeff, deceased;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Henry King;" and, after debate, the further consideration thereof was postponed until to-morrow.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of certain friendly Creek Indians of the mixed blood," together with the amendments reported thereto by the Committee on Public Lands; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to increase the duties on iron in bars and bolts, iron in pigs, castings, nails, and alum;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and on the question to agree to strike out of section 1, line 13, "one dollar," being the rate of duty per hundred weight, on iron in bars and bolts, manufactured without rolling, it was determined in the affirmative—yeas 19, nays 15, as follows:

YEAS—Messrs. Barbour, Daggett, Epes, Fromentin, Gaillard, Goldsborough, Johnson, King, Leake, Macon, Morrill, Otis, Smith, Stokes, Storer, Tait, Taylor, Williams of Mississippi, and Williams of Tennessee.

NAYS—Messrs. Burrill, Crittenden, Dickerson, Horsey, Hunter, Lacock, Morrow, Noble, Roberts, Ruggles, Sanford, Talbot, Tichenor, Van Dyke, and Wilson.

The amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended.

SATURDAY, April 18.

The PRESIDENT communicated a letter from Benjamin O. Tyler, presenting to the Senate a

copy of the Declaration of American Independence, lately executed and published, being the first and only fac simile copy of the signatures of that important document ever copied or published; and the letter was read.

Mr. WILSON, from the Committee on Post Offices and Post Roads, to whom was referred the bill, entitled "An act to increase the compensation of deputy postmasters in certain cases," reported the same with an amendment, which was read.

The resolution to authorize the pay to the assistants to the Sergeant-at-Arms and Doorkeeper of the Senate, was read the second and third times by unanimous consent, and passed as follows:

*Resolved*, That Robert Tweedy, Tobias Simpson, and George Hicks, assistants to the Sergeant-at-Arms and Doorkeeper of the Senate, be paid out of the contingent fund two dollars per day for each day they may have attended the Senate during the present session of Congress, and that Charles Tins be also allowed two dollars per day for his attendance during the present session of Congress.

Mr. JOHNSON submitted the following motion for consideration:

*Resolved*, That the reports of the commissioners for the districts east and west of Pearl river, in West Florida, relative to land claims, together with the memorials, petitions, and other papers addressed to the Senate upon the same subject, be referred to the Secretary of the Treasury, and that he be directed to report a plan to the Senate at their next session for the adjustment of the claims to land in the said districts.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Frederick Brown," and also the bill, entitled "An act for the relief of Benjamin Birdsall and William S. Foster," reported the same, severally, without amendment.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act making the port of Bath, in Massachusetts, a port of entry for ships or vessels arriving from the Cape of Good Hope, and from places beyond the same, and for establishing a collection district whereof Belfast shall be the port of entry;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading; and it was read a third time by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of John B. Dabney;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading; and it was read a third time by unanimous consent, and passed.

The said amendment having been reported by the committee correctly engrossed, the bill was read a third time, as amended, by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to incorporate the Columbian Institute for

the promotion of arts and sciences;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill was read a third time as amended.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act providing for the deposite of wines and distilled spirits in public warehouses;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill to be read a third time as amended.

The said amendments having been reported by the committee correctly engrossed, the bill was read a third time by unanimous consent, and passed.

Mr. LACOCK submitted the following resolution for consideration:

*Resolved*, That there be paid out of the contingent fund of this House, to Robert Tweedy, Tobias Simpson, and George Hicks, the sum of one hundred dollars each for extra services.

On motion by Mr. FROMENTIN, to strike out before George Hicks, the word "and," and to insert thereafter, "and Charles Tims," it was determined in the negative—yeas 7, nays 19, as follows:

YEAS—Messrs. Daggett, Fromentin, Johnson, Sanford, Smith, Williams of Tennessee, and Wilson.

NAYS—Messrs. Barbour, Burrill, Gaillard, Goldsborough, Hunter, Lacock, Leake, Morrill, Morrow, Noble, Otis, Roberts, Ruggles, Storer, Tait, Taylor, Tichenor, Van Dyke, and Williams of Mississippi.

The resolution was then read the second and third times by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to increase the duties on certain manufactured articles imported into the United States," and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill to be read a third time as amended.

The said amendments having been reported by the committee correctly engrossed, the bill was read a third time as amended, by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to continue in force from and after the 30th of June, 1819, until the 30th of June, 1826, the fourth paragraph of the first section of the act, entitled "An act to regulate the duties on imports and tonnage, and for other purposes;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed, and the bill read a third time as amended, and the said amendment having been reported by the committee correctly engrossed the bill was read a third time, as amended, by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Henry King;" and, on motion by Mr. TICHENOR, the further consideration thereof was postponed until the first Monday in June next.

A message from the House of Representatives informed the Senate that the House do not concur in the first amendment of the Senate, to the bill, entitled "An act making appropriations for the public buildings, and for furnishing the Capitol and President's house;" and they do concur in the residue of the amendments to the said bill. They have concurred in the amendments of the Senate to the bill, entitled "An act in addition to the 'Act for the punishment of certain crimes against the United States,' and to repeal the acts therein mentioned," except the seventh amendment, which they do not concur in. They have passed the bill, which originated in the Senate, entitled "An act concerning tonnage and discriminating duties in certain cases," with amendments, in which they request the concurrence of the Senate. They have also passed a bill, entitled "An act to regulate and fix the compensation of the clerks in the different offices;" a bill, entitled "An act for the relief of Madame Poideven;" a bill, entitled "An act supplementary to the several acts making appropriations for the year 1818;" a bill, entitled "An act supplementary to the several acts relative to direct taxes and internal duties;" a bill, entitled "An act to suspend the sales of certain lands in the State of Louisiana and Territory of Missouri;" a bill, entitled "An act for changing the compensation of the receivers and registers of land offices;" a bill, entitled "An act for the relief of Major General John Stark;" a bill, entitled "An act for the relief of Cornelia Mason;" a bill, entitled "An act to establish and alter certain post roads;" and also a bill, entitled "An act concerning invalid pensions;" in which bills they request the concurrence of the Senate.

The ten bills last mentioned were read, and severally passed to the second reading.

The bill, entitled "An act to regulate and fix the compensation of the clerks in the different offices," and also the bill, entitled "An act for the relief of Madame Poideven," were severally read the second time, by unanimous consent, and severally referred to the Committee of Claims.

The bill, entitled "An act supplementary to the several acts making appropriations for the year 1818," was read the second time, by unanimous consent, and referred to the Committee on Finance.

The bill, entitled "An act supplementary to the several acts relative to direct taxes and internal duties," was read the second time, by unanimous consent, and referred to the Committee on the Judiciary.

The bill, entitled "An act to suspend the sales of certain lands in the State of Louisiana and Territory of Missouri;" and also the bill, entitled "An act for changing the compensation of the receivers and registers of land offices;" were severally read the second time, by unanimous

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consent, and severally referred to the Committee on Public Lands.

The bill, entitled "An act for the relief of Major General John Stark;" and also the bill, entitled "An act for the relief of Cornelia Mason;" were severally read the second time, by unanimous consent, and severally referred to the Committee on Pensions.

The bill, entitled "An act to establish and alter certain post roads," was read the second time, by unanimous consent, and referred to the Committee on Post Offices and Post Roads.

The bill, entitled "An act concerning invalid pensions;" was read the second time, by unanimous consent, and on motion by Mr. LACOCK, the further consideration thereof was postponed until the first Monday in June next.

The Senate proceeded to consider the first amendment, disagreed to by the House of Representatives to the bill, entitled "An act making appropriations for the public buildings, and for furnishing the Capitol and President's house." Whereupon,

*Resolved*, That they recede therefrom.

The Senate proceeded to consider their seventh amendment to the bill, entitled "An act in addition to the 'Act for the punishment of certain crimes against the United States,' and to repeal the acts therein mentioned;" disagreed to by the House of Representatives." Whereupon,

*Resolved*, That they recede therefrom.

The Senate proceeded to consider the amendments of the House of Representatives to the bill, entitled "An act concerning tonnage and discriminating duties;" and they were referred to the Committee on Commerce and Manufactures.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for the relief of James Mackay, of the Missouri Territory," reported the same with amendments.

Mr. MORROW, from the same committee, to whom was also referred the bill, entitled "An act for the relief of Jonathan D. Essary and John Seybold," reported the same with amendments.

The PRESIDENT communicated a letter from the Hon. GEORGE W. CAMPBELL, notifying the resignation of his seat in the Senate; which was read, and on motion by Mr. WILLIAMS, of Tennessee, the PRESIDENT was requested to notify the Executive of the State of Tennessee of this resignation.

*Seven o'clock in the evening.*

Mr. SMITH, from the Committee on the Judiciary, to whom was referred the bill, entitled "An act supplementary to the several acts relative to direct taxes and internal duties;" reported the same without amendment, and the bill was considered as in Committee of the Whole; and no amendment having been made thereto, the PRESIDENT reported it to the House, and it passed to a third reading; and it was read a third time, by unanimous consent, and passed.

On motion by Mr. WILLIAMS, of Tennessee,

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Alfred M. Carter, of Tennessee, had leave to withdraw his petition and papers; and the Committee on Military Affairs, to whom was referred the petition of Alexander Levie, were discharged from the further consideration thereof.

On motion by Mr. MORROW, the Committee on Public Lands, to whom was referred, the memorial of the Mayor, Aldermen, and inhabitants of the city of New Orleans; the petition of Duncan McArthur; the memorial of the Mississippi Convention; the petition of Alexander Macomb; the petition of Joseph Bullen; the petition of John T. Hall and others; the petition of sundry inhabitants of the town of Vincennes; the petition of James Brady, of Pennsylvania; the petition of Thomas Goldin and others; the petition of Samuel Kohn, of Louisiana; the petition of the executrix and executors of Touissant Dubois, deceased; the petition of Jeremiah Gregory and others; the petition of John Baptist Valle, of St. Genevieve; the memorial of the New York Irish emigrant association; the memorial of the Philadelphia Irish emigrant association; the memorial of a number of inhabitants of the province of Texas; the petition of Benjamin S. Smoot and others; and also, the memorial of Luke Tierman and others, in behalf of the Hibernian Society in Baltimore; were discharged from the further consideration thereof, respectively.

On motion by Mr. VANDYKE, the Committee on Pensions, to whom was referred the petition of John Sergeant, of Vermont, and also the petition of Samuel Kerkendall, of New Jersey, were discharged from the further consideration thereof, respectively.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of B. and P. Jourdan and brothers;" in which they request the concurrence of the Senate. They have also passed the bill, which originated in the Senate, entitled "An act to increase the salaries of certain officers of the Government, with amendments, in which they also request the concurrence of the Senate.

The Senate proceeded to consider the amendments of the House of Representatives, to the bill last mentioned; and, on the question to agree to the fifth amendment, to wit: Line 5, after the word "dollars," where it occurs the last time, insert the following, viz: "to the Chief Justice of the United States, five thousand dollars, and to each of the judges of the Supreme Court, four thousand five hundred dollars," it was determined in the negative—yeas 13, nays 13. as follows:

YEAS—Messrs. Barbour, Burrill, Fromentin, Horsey, Hunter, Johnson, King, Otis, Sanford, Stokes, Storer, Van Dyke, and Williams of Tennessee.

NAYS—Messrs. Eppes, Gaillard, Lacock, Macon, Morrill, Morrow, Roberts, Smith, Tait, Talbot, Taylor, Williams of Mississippi, and Wilson.

And it was *Resolved*, That the Senate agree to the 1st, 2d, 3d, and 4th amendments, of the House of Representatives, to the said bill, with the following modification, to wit:

That the salaries of the Secretaries of State, Treas-



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ury, War, and Navy, respectively, be fixed at six thousand dollars.

That the Senate disagree to the fifth amendment, and agree to the sixth amendment, to the said bill.

The bill last brought up for concurrence, was read twice, by unanimous consent, and referred to the Committee on Military Affairs.

The amendments to the bill, entitled "An act respecting the organization of the Army, and for other purposes;" having been reported by the committee correctly engrossed, the bill was read a third time, as amended, and passed.

The amendments to the bill, entitled "An act for the relief of certain friendly Creek Indians, of the mixed blood," having been reported by the committee correctly engrossed, the bill was read a third time, and passed.

The amendments to the bill, entitled "An act to increase the duties on iron in bars and bolts, iron in pigs, castings, nails, and alum," having been reported by the committee correctly engrossed, the bill was read a third time, as amended, and passed.

The amendments to the bill, entitled "An act for the relief of Captain Henry Gist and Captain Benjamin Johnson," having been reported by the committee correctly engrossed, the bill was read a third time, as amended, and passed.

The bill, entitled "An act for the relief of the widow and children of Jacob Graeff, deceased," was read a third time, and passed.

The bill, entitled "An act for the relief of John Work," was read a third time, and passed.

The bill, entitled "An act for the relief of John Dillon," was read a third time, and passed.

The bill, entitled "An act for the relief of Jonas Harrison," was read a third time, and passed.

The bill, entitled "An act to continue in force an act, entitled 'An act relating to settlers on lands of the United States,'" was read a third time, and passed.

The bill, entitled "An act to increase the pay of the militia while in actual service, and for other purposes," was read a third time, and passed.

The bill, entitled "An act for the relief of volunteer mounted cavalry," was read a third time, and passed.

Mr. MORRIL, from the Committee on Pensions, to whom was referred the bill, entitled "An act for the relief of Major General John Stark," reported the same without amendment.

On motion, by Mr. VAN DYKE, the Committee on Pensions, who were instructed to inquire into the propriety of granting a pension to George Bell, were discharged from the further consideration thereof.

Mr. KING, from the Committee on Finance, to whom was referred the bill, entitled "An act supplementary to the act, entitled 'An act to regulate the collection of duties on imports and tonnage, passed the 2d day of March, 1799,'" reported the same with amendments, which were read, and considered as in Committee of the Whole; and the amendments having been agreed to, the PRESIDENT reported the bill to the House

amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill read a third time as amended.

The Senate adjourned to Monday morning.

## MONDAY, April 20.

Mr. MORROW presented the petitions of sundry inhabitants of the State of Ohio, praying the establishment of a land office at Piqua; he also presented the petition of Rufus Easton, with copies of documents; The petition of John Jarrot, of Missouri; the petition of John Myers, of Missouri; and the petition of Jeduthan Kendal, of Missouri; and the petitions were severally read, and laid on file.

On motion by Mr. ROBERTS, the Committee of Claims, to whom was referred the petition of Thomas Hall Jerey, surveyor and inspector of the port of Charleston; the petition of Samuel Miller, brevet major in the service of the United States; the petition of Joseph Storer, collector of Kennebunk; and also the resolution of the Senate, of the 11th February, 1818, instructing them to inquire into the expediency of providing for the examination and allowance of moneys paid by the State of Massachusetts for the supplies and services of the militia of that State, employed during the late war in the common defence, so far as the same may be due upon principles of equity and justice, were discharged from the further consideration thereof respectively.

On motion by Mr. LACOCK, the committee to whom was referred the memorial of the Legislative Council and House of Representatives of the Alabama Territory, praying to be empowered to incorporate companies for the purpose of forming turnpike roads, &c., were discharged from the further consideration thereof.

On motion by Mr. KING, the committee to whom was referred the Message of the President of the United States respecting the claim of the heirs of Caron de Beaumarchais, were discharged from the further consideration thereof.

On motion by Mr. TAIT, the Committee on Naval Affairs, to whom was referred the petition of John B. Timberlake, praying an equitable adjustment of his accounts, as purser, with the Navy Department, were discharged from the further consideration thereof.

On motion by Mr. BARBOUR, the committee to whom was referred the petition of Daniel Pettibone, of Philadelphia; and also the petition of Daniel Pettibone for himself, Ezekiel Chapman, and Josiah Nicholls, were discharged from the further consideration thereof respectively.

On motion by Mr. WILSON, the Committee on Post Offices and Post Roads, to whom was referred the petition of Loring A. Walder, and others, of Jacksonborough, in the State of Indiana, praying the establishment of a post office, were discharged from the further consideration thereof, and it was referred to the Postmaster General.

The amendments to the bill, entitled "An act supplementary to an act, entitled 'An act to regulate the collection of duties on imports and ton-

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nage,' passed the second day of March, 1799," having been reported by the committee correctly engrossed, the bill was read a third time as amended, and further amended by unanimous consent, and passed.

Mr. MORRIL, from the Committee on Pensions, to whom was referred the bill, entitled "An act for the relief of Cornelia Mason," reported it without amendment; and the bill was considered as in Committee of the Whole; and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading; and it was read a third time by unanimous consent, and passed.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act to suspend the sales of certain lands in the State of Louisiana and Territory of Missouri," reported it without amendment; and the bill was considered as in Committee of the Whole; and, on motion by Mr. TARR, the further consideration thereof was postponed until Monday next.

Mr. MORROW, from the Committee on Public Lands, to whom was referred the bill, entitled "An act for changing the compensation of receivers and registers of the land offices," reported it without amendment, and the bill was considered as in Committee of the Whole; and having been amended, the PRESIDENT reported it to the House accordingly; and the amendments being concurred in, they were ordered to be engrossed and the bill be read a third time as amended. The bill was then read a third time, as amended, by unanimous consent, and passed.

Mr. KING, from the Committee on Finance, to whom was referred the bill, entitled "An act supplementary to the several acts making appropriations for the year 1818," reported the same without amendment, and the bill was considered as in Committee of the Whole; and no amendment having been made thereto, the PRESIDENT reported it to the House, and it passed to a third reading; and it was read a third time, by unanimous consent, and passed.

Mr. SANFORD, from the Committee on Commerce and Manufactures, to whom was referred the amendment of the House of Representatives to the bill, entitled "An act concerning tonnage and discriminating duties in certain cases," reported the same without amendment. Whereupon

*Resolved*, That the Senate concur therein.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act to increase the compensation of certain deputy postmasters in certain cases;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed and the bill to be read a third time as amended.

On motion that the bill be now read a third time, it was objected to as being against the rule.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of Madame Poidevin," reported the same without amendment, and the bill was con-

sidered as in Committee of the Whole; and no amendment having been made thereto, the PRESIDENT reported it to the House, and it passed to a third reading, and it was read a third time by unanimous consent, and passed.

Mr. WILSON, from the Committee on Post Offices and Post Roads, to whom was referred the bill, entitled "An act to establish and alter certain post roads," reported the same with amendments, which were read and considered as in Committee of the Whole; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed and the bill be read a third time as amended.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act to regulate and fix the compensation of the clerks in the different offices," reported the same with amendments; which were read and considered as in Committee of the Whole, and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended. The bill was then read a third time as amended, by unanimous consent, and passed.

Mr. KING, from the Committee on Finance, to whom was referred the bill, entitled "An act to authorize the payment, in certain cases, on account of Treasury notes which have been lost or destroyed," reported the same without amendment; and, on his motion, the further consideration thereof was postponed until the first Monday in July next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of James Mackay, of the Missouri Territory," together with the amendments reported thereto by the Committee on Public Lands; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amended accordingly; and the amendments being concurred in, they were ordered to be engrossed and the bill be read a third time as amended. The bill was then read a third time, as amended, by unanimous consent, and passed.

Mr. FROMENTIN submitted the following motion; which was read and considered:

*Resolved*, That after six days from the commencement of a second or subsequent session of any Congress, all Legislative business, which at the close of the next preceding session remained undetermined in the Senate, shall be resumed and acted on in the same manner as if an adjournment had not taken place.

And, on the question to agree thereto, it was determined in the negative.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Jonathan D. Essary and John Seybold," together with the amendments reported thereto by the Committee on Public Lands; and the amendments having been agreed to, the PRESIDENT reported the bill to the House amend-

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ed accordingly; and the amendments being concurred in, they were ordered to be engrossed, and the bill be read a third time as amended. The bill was then read a third time as amended, by unanimous consent, and passed. The title was amended so as to read, "An act for the relief of John Seybold."

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Benjamin Birdsall and William S. Foster;" and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading; and the bill was read a third time by unanimous consent, and passed.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of John Anderson," reported the same without amendment; and, on his motion, the further consideration thereof was postponed until Monday next.

The Senate resumed the consideration of the motion of the 18th instant, "That the reports of the commissioners for the districts east and west of Pearl river in West Florida, relative to land claims, together with the memorials, petitions and other papers addressed to the Senate upon the same subject, be referred to the Secretary of the Treasury; and that he be directed to report a plan to the Senate, at their next session, for the adjustment of the claims to land in the said districts; and agreed thereto.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Frederick Brown;" and the further consideration thereof was postponed until the first Monday in July next.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of Major General John Stark;" and the bill having been amended, the PRESIDENT reported it to the House accordingly; and the amendment being concurred in, it was ordered to be engrossed and the bill be read a third time as amended.

On motion that the bill be now read a third time, as amended, it was objected to, as being against the twelfth rule for conducting business in the Senate.

On motion by Mr. FROMENTIN, that the said rule be suspended, so far as it respects the said bill, it was determined in the negative.

A message from the House of Representatives informed the Senate that the House do not agree to the modifications proposed by the Senate to their first, second, third, and fourth amendments to the bill, entitled "An act to increase the salaries of certain officers of Government;" and that they insist on their fifth amendment to the said bill.

The Senate proceeded to consider the amendments of the House of Representatives to the bill last mentioned: Whereupon, On motion by Mr. DAGGETT,

*Resolved*, That they insist on so much of their modification of the first, second, third, and fourth

amendments of the House of Representatives as applies to the salaries of the Secretary of State, and Secretary of the Treasury; that they recede from so much of their modification of said amendments as applies to the salaries of the Secretary of War and Navy; and that they recede from their disagreement to the fifth amendment.

Mr. ROBERTS, from the Committee of Claims, to whom was referred the bill, entitled "An act for the relief of B. and P. Jourdan, brothers," reported the same without amendment.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for transferring the claims in the office of the Commissioner, to the Third Auditor of the Treasury;" in which bill they request the concurrence of the Senate.

The bill last mentioned was read twice by unanimous consent, and referred to the Committee of Claims, to consider and report thereon; and the bill having been reported from said committee without amendment, it was considered as in Committee of the Whole; and no amendment having been made thereto, the PRESIDENT reported the bill to the House, and it passed to a third reading; and it was read a third time, by unanimous consent, and passed.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

I transmit to the Senate, a copy of the rules, regulations, and instructions, for the naval service of the United States, prepared by the Board of Navy Commissioners, in obedience to an act of Congress, passed 7th of February, 1815, entitled "An act to alter and amend the several acts for establishing a Navy Department, by adding thereto a Board of Commissioners."

JAMES MONROE.

WASHINGTON, April 20, 1818.

The Message and accompanying documents were read.

A message from the House of Representatives informed the Senate that the House adhere to their disagreement to the modification proposed by the Senate, to the first and second amendments of the House, to the bill, entitled "An act to increase the salaries of certain officers of Government."

The Senate proceeded to consider the amendments adhered to by the House of Representatives to the bill last mentioned. Whereupon, on motion by Mr. BARBOUR, the further consideration of said bill was postponed until Monday next.

The Senate adjourned to five o'clock in the evening.

*Five o'clock in the evening.*

The amendments to the bill, entitled "An act to establish and alter certain post roads," having been reported by the committee correctly engrossed, the bill was read a third time as amended by unanimous consent, and passed.

The Senate resumed, as in Committee of the Whole, the consideration of the bill, entitled "An act for the relief of B. and P. Jourdan, brothers;" and no amendment having been made thereto, the

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PRESIDENT reported the bill to the House; and it passed to a third reading.

On motion, that the bill be now read a third time, it was objected to by Mr. LACOCK as being against the twelfth rule for conducting business in the Senate.

On motion by Mr. JOHNSON, that the said rule be suspended, so far as it respects the said bill; it was determined in the negative.

A message from the House of Representatives informed the Senate that the House have concurred in the amendment of the Senate to the bill, entitled "An act to establish and alter certain post roads;" except the latter, to which they have disagreed.

The Senate proceeded to consider their amendment to the bill last mentioned, disagreed to by the House of Representatives, and receded therefrom.

On motion by Mr. MACON, a committee was appointed on the part of the Senate, jointly with such committee as may be appointed on the part

of the House of Representatives, to wait on the President of the United States, and notify him that, unless he may have any further communications to make to the two Houses of Congress, they are ready to adjourn. Mr. MACON and Mr. KING were appointed the said committee.

A message from the House of Representatives informed the Senate that the House, having finished the business before them, are about to adjourn.

Mr. MACON reported from the joint committee, that they had waited on the President of the United States, who informed them that he had no further communication to make to the two Houses of Congress.

*Ordered,* That the Secretary inform the House of Representatives that the Senate, having finished the Legislative business before them, are about to adjourn.

Whereupon, the PRESIDENT adjourned the Senate to meet on the third Monday in November next.

# PROCEEDINGS AND DEBATES

OF THE

## HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE FIRST SESSION OF THE FIFTEENTH CONGRESS, BEGUN AT THE CITY OF WASHINGTON, MONDAY, DECEMBER 1, 1817.

MONDAY, December 1, 1817.

This being the day appointed by the Constitution of the United States for the meeting of Congress, the following members of the House of Representatives appeared, produced their credentials, and took their seats, to wit:

*From New Hampshire*—Josiah Butler, Clifton Claggett, Salma Hale, Arthur Livermore, John P. Parrott, and Nathaniel Upham.

*From Massachusetts*—Benjamin Adams, Samuel C. Allen, Walter Folger, jr., Joshua Gage, John Holmes, Marcus Morton, Jeremiah Nelson, Benjamin Orr, Albion K. Parris, Nathaniel Ruggles, Zabdiel Sampson, Henry Shaw, Nathaniel Silsbee, Solomon Strong, and Ezekiel Whitman.

*From Rhode Island*—John L. Boss, jr.

*From Connecticut*—Uriel Holmes, Ebenezer Huntington, Jonathan O. Moseley, Timothy Pitkin, Samuel B. Sherwood, Nathaniel Terry, and Thomas S. Williams.

*From Vermont*—Heman Allen, Samuel C. Crafts, William Hunter, Orsamus C. Merrill, Charles Rich, and Mark Richards.

*From New York*—Oliver C. Comstock, Daniel Cruger, John P. Cushman, John R. Drake, Benjamin Ellicott, Josiah Hasbrouck, John Herkimer, Thomas H. Hubbard, William Irving, Dorrance Kirtland, Thos. Lawyer, John Palmer, James Porter, John Savage, Philip J. Schuyler, Tredwell Scudder, John C. Spencer, Henry R. Storrs, James Tallmadge, jr., John W. Taylor, Caleb Tompkins, George Townsend, Peter H. Wendover, Rensselaer Westerlo, James W. Wilkin, and Isaac Williams.

*From New Jersey*—Benjamin Bennett, Joseph Bloomfield, Charles Kinsey, John Linn, and Henry Southard.

*From Pennsylvania*—William Anderson, Andrew Boden, Isaac Darlington, Joseph Heister, Joseph Hopkinson, Samuel D. Ingham, William P. Maclay, David Marchand, Robert Moore, John Murray, Thomas Patterson, Levi Pawling, Adam Seybert, Jacob Spangler, Christian Tarr, James M. Wallace, John Whiteside, and William Wilson.

*From Delaware*—Louis McLane.

*From Maryland*—Thomas Culbreth, John C. Herbert, Peter Little, George Peter, Philip Reed, Samuel Ringgold, Samuel Smith, and Philip Stuart.

*From Virginia*—William Lee Ball, Philip P. Barbour, Burwell Bassett, William A. Burwell, Edward Colston, Robert S. Garnett, William McCoy, Charles F. Mercer, Hugh Nelson, Thomas Newton, James Pindall, James Pleasants, Alexander Smyth, George F. Strother, Henry St. George Tucker, and John Tyler.

*From North Carolina*—Weldon N. Edwards, Daniel M. Forney, Thomas H. Hall, George Mumford, James Owen, Lemuel Sawyer, Thomas Settle, Jesse Slocumb, James S. Smith, Felix Walker, and Louis Williams.

*From South Carolina*—Joseph Bellinger, William Lowndes, Henry Middleton, Stephen D. Miller, and Sterling Tucker.

*From Georgia*—Joel Abbott, Thomas W. Cobb, Zadock Cook, Joel Crawford, John Forsyth, and William Terrell.

*From Kentucky*—Richard C. Anderson, jr., Henry Clay, Joseph Desha, Richard M. Johnson, Anthony New, Tunstall Quarles, jr., George Robertson, Thomas Speed, David Trimble, and David Walker.

*From Tennessee*—William G. Blount, Francis Jones, George W. L. Marr, and John Rhea.

*From Ohio*—Levi Barber, Philemon Beecher, John W. Campbell, William Henry Harrison, and Samuel Herrick.

*From Louisiana*—Thomas B. Robertson.

*From Indiana*—William Hendricks.

### ELECTION OF SPEAKER, &c.

A quorum, consisting of a majority of the whole number of members, being present, the House then proceeded to the choice of a SPEAKER. On counting the votes, it appeared that of 147 votes given in, there were for HENRY CLAY, 143; for SAMUEL SMITH, 6; blank, 1.

So that Mr. CLAY was declared to be duly elected Speaker; and, being conducted to the Chair, the usual oath was administered to him, by Mr. BASSETT; when the SPEAKER made his acknowledgments to the House in the following terms:

"If we consider, gentlemen; the free and illustrious origin of this assembly; the extent and magnitude of the interests committed to its charge; and the brilliant prospects of the rising confederacy, whose destiny may be materially affected by the legislation of Congress,

the House of Representatives justly ranks amongst the most eminent deliberative bodies that have existed. To be appointed to preside at its deliberations, is an exalted honor, of which I entertain the highest sense; and I pray you to accept, for the flattering manner in which you have conferred it, my profound acknowledgments.

"If I bring into the Chair, gentlemen, the advantage of some experience of its duties, far from inspiring me with undue confidence, that experience serves only to fill me with distrust of my own capacity. I have been taught by it, how arduous those duties are, and how unavailing would be any efforts of mine to discharge them, without the liberal support and cheering countenance of the House. I shall anxiously seek, gentlemen, to merit that support and countenance, by an undeviating aim at impartiality, and at the preservation of that decorum, without the observance of which, the public business must be illy transacted, and the dignity and the character of the House seriously impaired."

The members having been severally qualified by taking the oath to support the Constitution, the House proceeded to elect a Clerk. On counting the ballots, it appeared that 144 votes were given in, all of which were for THOMAS DOUGHERTY, who resumed his place as Clerk of the House.

THOMAS CLAXTON was then re-appointed Doorkeeper, BENJAMIN BURCH Assistant Doorkeeper, and THOMAS DUNN Sergeant-at-Arms, without opposition.

After the usual incipient proceedings, and interchanging messages with the Senate, the House adjourned to twelve o'clock to-morrow.

#### TUESDAY, December 2.

Several other members, to wit: from New Jersey, EPHRAIM BATEMAN; from Virginia, WILLIAM J. LEWIS; and from Tennessee, THOMAS CLAIBORNE and THOMAS HOGG, appeared, produced their credentials, were qualified, and took their seats.

MR. HOLMES, of Massachusetts, from the joint committee appointed yesterday to wait on the President of the United States, reported, that the committee had performed that service, and that the PRESIDENT answered, that he would make a communication to the two Houses of Congress to-day, at 12 o'clock.

A Message, in writing, was then received from the PRESIDENT OF THE UNITED STATES, which was read and referred to the Committee of the Whole on the state of the Union; and five thousand copies thereof ordered to be printed for the use of the members of the House. [For this Message, see Senate proceedings of this date, page 12.]

#### WEDNESDAY, December 3.

Several other members, to wit: from Pennsylvania, JOHN SERGEANT; from Virginia, PETERSON GOODWYN and THOMAS M. NELSON; and from South Carolina, WILSON NESBITT, appeared, produced their credentials, were qualified, and took their seats.

THE SPEAKER laid before the House a letter from John Gardiner, Chief Clerk in the General Land Office, accompanied with two copies of a map of the bounty lands in the Illinois Territory, engraved for the use of the soldiers of the late army; which was ordered to lie on the table.

#### STANDING COMMITTEES.

On motion, by Mr. SMITH, of Maryland, the House proceeded to the appointment of the Standing Committees, pursuant to the rules and orders of the House. They are as follows:

*Committee of Ways and Means*—Mr. Lowndes, Mr. Smith, of Maryland, Mr. Burwell, Mr. Pitkin, Mr. Abbott, Mr. Sergeant, and Mr. Trimble.

*Of Elections*—Mr. Taylor, Mr. Tyler, Mr. Merrill, Mr. Shaw, Mr. Boss, Mr. Whitman, and Mr. Strong.

*Of Commerce and Manufactures*—Mr. Newton, Mr. Seybert, Mr. Moseley, Mr. Irving, of New York, Mr. McLane, Mr. Crawford, and Mr. Kinsey.

*Of Claims*—Mr. Williams, of North Carolina, Mr. Rich, Mr. Bateman, Mr. McCoy, Mr. Huntington, Mr. Schuyler, and Mr. Walker, of Kentucky.

*For the District of Columbia*—Mr. Herbert, Mr. Miller, Mr. Peter, Mr. Boden, Mr. Strother, Mr. Claiborne, and Mr. Cobb.

*On the Public Lands*—Mr. Robertson, of Louisiana, Mr. Anderson, of Kentucky, Mr. Mercer, Mr. Campbell, Mr. Hendricks, Mr. Terry, and Mr. Marr.

*On Private Land Claims*—Mr. Herrick, Mr. Heister, Mr. Pindall, Mr. Hogg, and Mr. Tompkins.

*On the Post Office and Post Roads*—Mr. Ingham, Mr. Blount, Mr. Barbour, of Ohio, Mr. Townsend, Mr. Jeremiah Nelson, Mr. Colston, and Mr. Terrill.

*On Pensions and Revolutionary Claims*—Mr. Rhea, Mr. Wilkin, Mr. Ruggles, Mr. William P. Maclay, Mr. Sherwood, Mr. Ellicott, and Mr. Owen.

*Of Public Expenditures*—Mr. Desha, Mr. Anderson, of Pennsylvania, Mr. Garnett, Mr. Cushman, Mr. Culbreth, Mr. Hunter, and Mr. Holmes, of Connecticut.

*On the Judiciary*—Mr. Hugh Nelson, Mr. Hopkinson, Mr. Spencer, Mr. Edwards, Mr. Beecher, Mr. Livermore, and Mr. Hale.

*Of Accounts*—Mr. Little, Mr. Bennett, and Mr. Allen, of Massachusetts.

*Of Revision and Unfinished Business*—Mr. Savage, Mr. Whiteside, and Mr. Westerlo.

*On the Expenditures in the Department of State*—Mr. Forsyth, Mr. Hasbrouck, and Mr. Scudder.

*On the Expenditures in the Treasury Department*—Mr. Lowndes, Mr. Allen, of Vermont, and Mr. Marchand.

*On the Expenditures in the War Department*—Mr. Johnson, of Kentucky, Mr. Tucker, of South Carolina, and Mr. Herkimer.

*On the Expenditures in the Navy Department*—Mr. Pleasants, Mr. Storrs, and Mr. Sampson.



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*Reference of the Message.*

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*On the Expenditures in the Post Office*—Mr. Ingham, Mr. Hubbard, and Mr. Huntington.

*On the Expenditures on the Public Buildings*—Mr. Tucker, of Virginia, Mr. Drake, and Mr. Orr.

#### REFERENCE OF THE MESSAGE.

On motion of Mr. TAYLOR, of New York, the House resolved itself into a Committee of the Whole on the state of the Union, Mr. SMITH, of Maryland, being called to the Chair.

The President's Message was the subject of consideration.

Mr. TAYLOR moved a series of resolutions, embracing the following references of various parts of the Message :

*Resolved*, That so much of the Message of the President of the United States as relates to the subject of Foreign Affairs, and to our commercial intercourse with British Colonial ports, be referred to a select committee.

"That so much as relates to military affairs; so much as relates to an improvement in the organization and discipline of the militia; so much as relates to naval affairs; so much as relates to the improvement of the Indian tribes in the arts of civilized life; so much as relates to roads, canals, and seminaries of learning; so much as relates to the illicit introduction of slaves from Amelia Island into the United States; so much as relates to the public buildings, and to the erection of new edifices for the accommodation of the Heads of Departments and the Attorney General; so much as relates to the surviving officers and soldiers of the Revolutionary army, be severally referred to select committees, with leave to report by bill or otherwise.

"That so much as relates to manufactures be referred to the Committee of Commerce and Manufactures; so much as relates to the subject of revenue and the internal taxes, be referred to the Committee of Ways and Means; so much as relates to the purchase of lands from the Indian tribes, to the Committee on Public Lands.

The first resolution having been read for consideration, Mr. CLAY (the Speaker) moved to amend the same by adding to the end thereof the following words:

"And that the said committee be instructed to inquire whether any, and if any what, provisions of law are necessary to insure to the American colonies of Spain a just observance of the duties incident to the neutral relation in which the United States stand, in the existing war between them and Spain."

Mr. CLAY said, that his presenting at so early a period of the session this subject to the consideration of the House, was in consequence of certain proceedings which he had seen represented in the public prints as having taken place before certain of our courts of justice. Two or three cases bearing on this subject had come to his knowledge, which he wished to state to the House. The first had occurred at Philadelphia, before the circuit court of the United States held in that city. The circumstances of the case, for which however he did not pretend to vouch, having seen them through the channel already indicated, were these—if they were incorrectly stated, he was happy that a gentleman had taken his

seat this morning from that city, who would be able to correct him: that nine or ten British disbanded officers had formed in Europe the resolution to unite themselves with the Spanish patriots in the contest existing between them and Spain; that to carry into effect this intention they had sailed from Europe, and in their transit to South America had touched at the port of Philadelphia; that, during their residence in Philadelphia, wearing, perhaps, the arms and habiliments of military men, making no disguise of their intention to participate in the struggle, they took passage in a vessel bound to some port in South America; that, a knowledge of this fact having come to the ears of the public authorities, or, perhaps at the instigation of some agent of the Spanish Government, a prosecution was commenced against these officers, who, from their inability to procure bail, were confined in prison. If, said Mr. C., the circumstances attending this transaction be correctly stated, it becomes an imperious duty in the House to institute the inquiry contemplated by the amendment which I have proposed. That this was an extraordinary case was demonstrated by the fact of the general sensation which it had excited on the subject in the place where it had occurred. Filled as that respectable and populous city is with men differing widely on political topics, and entertaining various views of political affairs, but one sentiment, Mr. C. said, prevailed on this subject, which was favorable to the persons thus arraigned. With regard to the conduct of the court on this occasion, he would say nothing. The respect which, whilst he had a seat on this floor, he should always show to every department of the Government; the respect he entertained for the honorable Judge who had presided, forbade him from pronouncing the decision of that court to have been unwarranted by law. But he felt himself perfectly sustained in saying, that if the proceeding was warranted by the existing law, it was the imperious duty of Congress to alter the law in this respect. For what, he asked, was the neutral obligation which one nation owed to another engaged in war? The essence of it is this; that the belligerent means of the neutral shall not be employed in the war in favor of either of the parties. That is the whole of the obligation of a third party in a war between two others. It certainly does not require of one nation to restrain the belligerent means of other nations. If those nations choose to permit their means to be employed in behalf of either party, it is their business to look to it, and not ours. Let the conduct of the persons prosecuted be regarded in its most unfavorable light; let it be considered as the passage of troops through our country, and there was nothing in our neutral obligations forbidding it. The passage of troops through a neutral country, according to his impressions, was a question depending on the particular interest, quiet, or repose of the country traversed, and might be granted or refused, at its discretion, without in any degree affecting the obligations of the neutral to either of the parties engaged in the controversy. But

surely, Mr. C. said, this was not a case of the passage of troops, the persons apprehended not being in sufficient number; not organized or equipped in such a manner as, under any construction, to constitute a military corps.

On this case he would detain the House no longer, he said; for he was satisfied they could not but agree with him, if the law justified the proceeding that had taken place, that law ought to be immediately amended. Other cases had occurred in which it appeared to him it became the Congress to interpose its authority. Persons sailing under the flag of the provinces had been arraigned in our courts, and tried for piracy; in one case, after having been arraigned, tried, and acquitted of piracy, the same individuals, on the instigation of a Spanish officer or agent, had been again arraigned for the same offence. The gentleman from Massachusetts would correct him if he was wrong, for the case had occurred in the town of Boston. We admit the flag of these colonies into our ports, said Mr. C.; we profess to be neutral; but if our laws pronounce that the moment the property and persons under that flag enter our ports, they shall be seized, the one claimed by the Spanish Minister or Consul as the property of Spain, and the other prosecuted as pirates, that law ought to be altered if we mean to perform our neutral professions. I have brought the subject before this House thus promptly, said Mr. C., because I trust that in *this House* the cause will find justice; that, however treated elsewhere, on this floor will be found a guardian interest attending to our performance of the just obligations of neutrality. Hitherto, he said, whatever might have been our intentions, our acts have all been on the other side. From the proclamation of 1815, issued to terminate an expedition supposed to be organizing in Louisiana—an expedition existing only in the mind of the Chevalier de Onís—down to the late act, whether the measure was a proper one or not he did not say; his confidence in the Executive led him to suppose it was adopted on sufficient grounds—down to the order for suppressing, as it was called, the establishments at Amelia Island and Galveston—all the acts of the Government had been on one side; they all bore against the colonies, against the cause in which the patriots of South America were arduously engaged. It became us, he said, to look to the other side, honestly intending neutrality, as he believed we did. Let us recollect the condition of the patriots; no minister here to spur on our Government, as was said in an interesting and it appeared to him a very candid work recently published in this country, respecting the progress of the South American revolution; no Minister here to be rewarded by noble honors in consequence of the influence he is supposed to possess with the American Government. No; their unfortunate case, Mr. C. said, was what ours had been in the years 1778 and 1779—their Ministers, like our Franklins and Jays at that day, were skulking about Europe imploring inexorable legitimacy one kind look—some aid to terminate a

war afflicting to humanity. Nay, their situation was worse than ours; for we had one great and magnanimous ally to recognise us, but no nation had stepped forward to acknowledge any of these provinces. Such disparity between the parties; Mr. C. said, demanded a just attention to the interests of the party which was unrepresented; and if the facts which he had mentioned, and others which had come to his knowledge, were correct, they loudly demanded the interposition of Congress. He trusted the House would give the subject their attention, and show that here, in this place, the obligations of neutrality would be strictly regarded in respect to Spanish America.

Mr. SERGEANT rose, in consequence of the gentleman having appealed to him, not to enter into any discussion of the question presented by the amendment, but to speak of the facts which were within his knowledge. The statement made by the Speaker was substantially correct; it was also correct that the circumstance had occasioned considerable sensation among all parties in the city of Philadelphia. Mr. S. recapitulated the principal facts, adding, that the vessel in which these persons embarked was laden with munitions of war. As respected the views and intentions of the persons apprehended, Mr. S. said, he believed they had neither any intention nor any idea of violating the laws of the United States, and that their conduct had been perfectly decorous and correct. The court had thought they had offended against the act of Congress of the last session; or were so far at least of that opinion, that they thought it necessary to detain them. The bail demanded was not high; but they were not able to procure it, and were, therefore, committed to jail. It was because of the correct deportment of these persons, that the sentiment in their favor had been so general—but no complaint was made of the court, for which the same respect was entertained with which the Speaker himself had regarded it. He had mentioned these facts only that the House might, when the time came for acting on it, be aware of the construction put on the existing law, so far as any had been given.

The amendment moved by Mr. CLAY to the first resolution was agreed to without opposition.

The Committee of the Whole rose and reported their adoption of the several resolutions moved by Mr. TAYLOR, with the amendment; which the House agreed to, *nem. con.*, and the committees were ordered to be appointed accordingly. They are as follow:

*On so much of the President's Message as relates to Foreign Affairs.*—Messrs. FORSYTH, HOLMES of Massachusetts, BARBOUR of Virginia, ROBERTSON of Louisiana, PORTER, ORR, and GOODWYN.

*On Military Affairs.*—Messrs. JOHNSON of Kentucky, BLOOMFIELD, REED, T. M. NELSON, NESBITT, FORNEY, and GAGE.

*On the Militia.*—Messrs. HARRISON, SMITH of Virginia, QUABLES, WILLIAMS of Connecticut, JONES, LINN, and MORTON.

*On Naval Affairs.*—Messrs. PLEASANTS, SILS-

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BEE, WENDOVER, PARROTT, RINGGOLD, SAWYER, and SCHUYLER.

*On Indian Affairs*—Messrs. SOUTHARD, WILLIAMS of New York, MURRAY, SLOCUMB, BUTLER, RICHARDS, and TARR.

*On Internal Improvement*—Messrs. TUCKER of Virginia, TALLMADGE, INGHAM, STORRS, CLAGGETT, ROBERTSON of Kentucky, and LEWIS.

*Respecting Amelia Island*—Messrs. MIDDLETON, J. S. SMITH, UPHAM, SAWYER, BALL, MUMFORD, and COOK.

*On the Public Buildings*—Messrs. PARRIS, BASSETT, BELLINGER, TAYLOR, FORSYTH, FOLGER, and CRAFTS.

*Respecting the surviving Revolutionary Patriots*—Messrs. BLOOMFIELD, REED, STUART, RHEA, SMITH of Maryland, WALLACE, and HALL of North Carolina.

#### THURSDAY, December 4.

Three other members, to wit: from Pennsylvania, HENRY BALDWIN; from Maryland, THOMAS BAYLEY; and from Virginia, JAMES JOHNSON, appeared, produced their credentials, were qualified, and took their seats.

Mr. SERGEANT presented a petition of the managers of the Pennsylvania Hospital, praying the remission of the duties charged on the importation of a painting of "Christ healing in the Temple," which was presented by Benjamin West, of London, to the said hospital.—Referred to the Committee of Commerce and Manufactures.

On motion of Mr. COMSTOCK, the Committee on Military Affairs were instructed to inquire into the expediency of making provision, by law, for the commutation into money of the military bounty lands granted by Congress.

A message from the Senate informed the House that the Senate have passed a resolution, "for the admission of the State of Mississippi into the Union." They have also passed a resolution "for the appointment of a joint committee, to consist of three members of each House, who shall have the direction of the money appropriated for the purchase of books and maps for the use of the two Houses of Congress," and have appointed the committee on their part. And they have also passed a resolution for the appointment of two Chaplains to Congress, during the present session, one by each House, who shall interchange weekly; in which said resolutions they ask the concurrence of this House.

The resolution for the admission of the State of Mississippi into the Union was read twice, and committed to a Committee of the Whole to-morrow.

The resolution for the appointment of a committee to have the direction of the money for the purchase of books, &c., was read, and concurred in by the House, and Messrs. SEYBERT, WHITMAN, and MIDDLETON, were appointed of the said committee on the part of this House.

The resolution for the appointment of Chaplains was read, and also concurred in by the House.

#### FRIDAY, December 5.

Two other members, to wit: from Pennsylvania, WILLIAM MACLAY, and from Virginia, BALLARD SMITH, appeared, produced their credentials, were qualified, and took their seats.

On motion of Mr. SEYBERT, a committee was appointed to inquire into the expediency of revising and amending certain acts concerning the Mint establishment of the United States, and that they have leave to report by bill. Messrs. SEYBERT, BALDWIN, and IRVING, of New York, were appointed the committee.

On motion of Mr. SOUTHARD, the House then proceeded to the appointment of a Chaplain for Congress on the part of this House, and the reverend Messrs. BALCH, CONE, LAURIE, ALLISON, CUMMING, ADDISON, and BROWN, were put in nomination. Two ballottings took place without an election; on the third, Mr. ALLISON received 84 votes, and was duly elected.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting the annual statements relative to the internal duties and direct tax, as required by the 33d section of the act of the 22d of July, 1813; which were ordered to lie on the table.

#### SPANISH AMERICAN PROVINCES.

Mr. ROBERTSON, of Louisiana, offered the following resolution for consideration:

*Resolved*, That the President of the United States be requested to lay before the House of Representatives such information as he may possess and think proper to communicate, relative to the independence and political condition of the provinces of Spanish America.

The resolution having been read—

Mr. ROBERTSON said that he supposed there would be no objection to the adoption of the resolution which he had just submitted to the consideration of the House. He found, from the late Message of the President, that the attention of the House, as well as of the nation, had been, in a general way, directed to the situation of the provinces of Spanish America. The President had observed, too, and very truly, that the citizens of the United States sympathized in the events which affected their neighbors. Mr. R. said that, as far back as the year 1811, this subject had excited considerable interest; that a committee had been raised; the declaration of independence and the constitution of Venezuela, with other information, laid before it by the then President, and a report on them submitted to the House. The report, among other things, expressed much good will towards the Venezuelans, and an intention to acknowledge their independence whenever that independence should be achieved. From that time till the present, silence had been observed in regard to the affairs of that part of the continent. The reason was obvious: we were soon after engaged in war with England, and since the peace, our own pressing concerns had occupied our attention.

The President has spoken, sir, of the interest and the sympathy we feel in the affairs of our

southern neighbors. Perhaps it may be said, with truth, that no subject excites, throughout the civilized world, a stronger interest than the contest in which the provinces of Spanish America are engaged. Every wind that blows wafts to our shores the schemes and speculations of European statesmen and politicians; from the frozen regions of the North to the milder climes of the Peninsula, it elicits remark and commands attention. Even Alexander, he who indites epistles about peace and bible societies, while he whets the sword of battle and prepares the weapons of destruction, he, it is said, is about to furnish his Cossacks to add to the horrors of, as it is already called, the war of death. The thunders of the Pope, too, the head of the Christian church, began to be heard, and no doubt we shall soon see his anathemas giving up the people of South America, body and soul, to the punishments due here and hereafter to the crimes of rebellion and republicanism. If, then, to governments across the Atlantic, the situation of this people be thus interesting, surely it is not a matter of surprise that the citizens of the United States should with some solicitude turn their attention towards them. Every Republican in the United States must lament their disasters and exult in their triumphs; they do but follow the example we have set them; we owe our glory and our fame to resistance to arbitrary power, and the people of Spanish America, and all others, groaning under oppression, must owe their elevation and worth of character to the same circumstance. They do but follow in our footsteps; it is in vain to deny or disguise the fact; it is known throughout the world—whatever of injury despotism or priestcraft have sustained, whether from the revolution of France, or that which now, I hope, flourishes in our hemisphere, is laid to the account of our glorious Revolution, and the excellent principles of our Constitution.

It is to be regretted, Mr. Speaker, that our acquaintance with the people of Spanish America is not more particular and intimate than it is: we entertain but one sentiment about them—our feelings are all in unison; yet we differ and dispute on a variety of points, which it is desirable should be no longer suffered to remain in doubt. Mexico, Peru, Chili, Buenos Ayres, Venezuela, New Grenada, are they independent? Are they struggling for independence, or have they yielded to their European tyrant? Have they made known their situation to the Executive Department? Have they demanded to be recognised as independent sovereignties? do they govern themselves? elect their agents, legislature, executive, and judiciary? lay and collect taxes, raise and support armies and navies? It is possible that these facts are in the possession of the President; it is very well known that there have been agents, men of high respectability, sent publicly from the governments of Venezuela, New Grenada, Buenos Ayres and Mexico, to this country, and, for anything I know to the contrary, from other provinces. It is probable that they have not remained silent, but whatever they may have said

has not been made known to this House, or to this nation. As our Government is essentially popular, I wish information to be given to the people. I wish for information, that our judgments may sanction sentiments our hearts so warmly approve. I do not mean, Mr. Speaker, to commit myself in regard to my future course—it must, to a certain extent, depend upon circumstances. This House will act as circumstances may require, but, for myself, I have no hesitation to say, that, if it shall appear that the provinces of Spanish America, or any of them, are really independent, no earthly consideration shall prevent me, in my public character, from acknowledging them as sovereign States.

Mr. FORSYTH said he was too well acquainted with the temper of the people of the United States on this subject, to oppose any motion for inquiring into it; such was not his object; but he knew, from experience, that some inquiries were proper and some dangerous. In this case, he thought that all which could be known ought to be known; but he suggested to the mover of the resolution, whether it was not too broad in its call on the Executive, and whether it ought not to contain the usual qualification of excepting such information as the President might deem the communication of incompatible with the public interest. Mr. F. presumed the President had communicated all that he knew, or all that he wished Congress to know on the subject; and as it was usual in requesting information of the Executive, to ask for such only as the public interest would, in his opinion, permit to be disclosed, he proposed so to modify this motion; in which shape only could he consent to vote for it.

Mr. ROBERTSON signified his ready assent to Mr. FORSYTH's proposition.

The resolution passed *nem. con.* as modified, and a committee of two was appointed to wait on the President with it.

The House adjourned to Monday.

#### MONDAY, December 8.

Several other members, to wit: from Massachusetts, JONATHAN MASON; from Virginia, ARCHIBALD AUSTIN and JOHN FLOYD; and from Ohio, PETER HITCHCOCK, appeared, produced their credentials, were qualified, and took their seats.

NATHANIEL POPE, from the Illinois Territory, and JOHN SCOTT, from the Territory of Missouri, having also appeared, and produced their credentials as Delegates to represent the said Territories in the Fifteenth Congress of the United States, were also qualified, and took their seats.

Mr. BEECHER presented a petition of the ministers, elders, and sundry members of the Christian society called "Menonists," in the State of Ohio, praying to be permitted to commute the fines which are or may be imposed on them for non-performance of military duty, into labor on the public roads, highways, or other public improvements.—Referred to the committee on that part of the President's Message which relates to the Militia.

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The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting his annual report upon the state of the finances; which were referred to the Committee of Ways and Means.

Mr. JOHNSON, of Kentucky, reported a bill authorizing a commutation of soldiers' bounty lands.

[The first section of this bill provides that the soldiers of the late and present army shall be allowed to commute their land patents or claims for money, at the rate of one dollar and forty cents per acre, to be paid in four annual instalments, by the pension agents appointed in the several States; provided that there be in all cases a complete relinquishment of all claims on said lands by the commutators to the United States. The second section of the bill makes the appropriation necessary to carry the first into effect.]

The bill was twice read and committed.

Mr. JOHNSON, also, from the committee to whom had been referred the petition of John Bates, reported a bill for his relief; which received the usual course of two readings and commitment.

On motion of Mr. FORSYTH, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of making Darien, in the State of Georgia, a port of entry and delivery.

On motion of Mr. INGHAM, of Pennsylvania, a joint resolution was passed to a third reading authorizing a distribution of the new edition of the laws of the Union to such members of the present Congress as have not received them.

On motion of Mr. HENDRICKS, of Indiana, the Committee on the Public Lands were instructed to inquire into the expediency of authorizing Joel Earwood to transfer to other vacant lands in the Jeffersonville district any moneys he may have paid on the northeast quarter of section twenty-one, township six, and range nine in said district.

On motion of Mr. NELSON, of Virginia, the House resolved itself into a Committee of the Whole on the resolution from the Senate for admitting the State of Mississippi into the Union. The constitution of the State having been read through at the suggestion of Mr. TAYLOR, the Committee rose and reported their agreement to the resolution; which was then read a third time and finally passed.

#### AMELIA ISLAND AND SPANISH PATRIOTS.

Mr. RHEA offered for consideration the following resolution:

*Resolved*, That the President be requested to lay before the House of Representatives any information he may possess, and think proper to communicate, relative to the proceedings of certain persons who took possession of Amelia Island, at the mouth of the St. Mary's river, near the boundary of the State of Georgia, in the Summer of the present year, and made an establishment there; and also any information he hath, and may think proper to communicate, relative to an establishment made, at an earlier period, by persons of the same description, in the Gulf of Mexico, at a place called Galveston, within the limits of the United States, as we contend, under the cession of Louisiana; to-

gether with the reasons inducing him to issue orders to suppress the said establishments.

Mr. RHEA said that the establishments referred to in the resolution he had just offered, had already excited much attention throughout the country, which would be still more attracted to that point by the order given to suppress them. His object in offering this motion was to obtain such information as might satisfy the minds of the American people on the expediency of that measure.

Mr. FORSYTH moved to strike out the last clause of the proposed resolutions. It would be an extraordinary course for the House to ask for the reasons of the measure in question, when they were distinctly and satisfactorily avowed in the Message of the President. To call upon him, after that exposition to explain the reasons for his conduct, would be to cast a severe reflection on the Executive, as implying dissatisfaction at the reasons already given. For his own part, Mr. F. said, the conduct of the Executive appeared to him to have been perfectly correct; but he had no objection to any information desired, if asked for, unconnected with the clause he had excepted to.

Mr. HUGH NELSON of Virginia, twice addressed the House on the main subject of the resolution, but, being interrupted in his remarks by incidental circumstances, we have connected his observations in the following report of the substance of them. A few remarks are added, which the interruptions referred to, prevented him from making. Mr. N. was decidedly in favor of the motion. Like the honorable SPEAKER, who had alluded to this matter when in Committee of the Whole the other day, Mr. N. said, he felt his confidence in the Executive not diminished; like him, he felt confident that the measure of the suppression of these establishments, was founded, in their opinion, in a just sense of propriety, and in a desire to promote the public weal: and he believed that, for the satisfaction of the public, and for a just vindication of the Executive, these documents should be exhibited. I cannot but believe, said he, that the public will see, that, in this measure, the conduct of the Government has been marked by a due respect to the rights of the Spanish provinces, and a vigilant and prompt attention to the rights and interests of our own country. It is the best interest of the Spanish provinces, embarked in the noble cause of emancipating themselves, to give evidence to the world, that all their proceedings are the result of just and sound principles; to repel and refute, by a high-minded and maganimous conduct, the malignant and calumnious representations, which would place them in the grade of savages and barbarians. A just regard to the opinions of the civilized world; a due estimate of their own dignity and self respect, will lead them to disclaim all connexion with these piratical establishments. Their own interest would lead them to co-operate in the extinction of these hordes of buccaneers. There was a time when the union of McGregor, distinguished by his gallant exertions in the patriot cause of the

Spanish provinces, with their naval commander Aury, and supported by some of the high-minded and gallant spirits of our own late military establishment, might have led to the opinion that it was a bold and valorous enterprise, to wrest from their oppressors a portion of their territory, and bravely to wage the war in the assailable dominions of the Spanish monarch. But the moment for that opinion is gone by—McGregor has abandoned them. Posey, and the other gallant spirits of this country, no more give color to the enterprise. And have they not themselves given further proofs, if proofs are wanting, that they are but a horde of buccaneers, invading our own territory, and plundering our own citizens? See the accounts from Savannah. To believe that these settlements are sanctioned by the Patriots, would be to degrade them from the high and dignified station which they hold in our estimation. That the Patriots should themselves countenance such establishments, would be further to descend from the highest pinnacle of honorable elevation, to the lowest abyss of humiliation and contempt. Men embarked in the glorious and magnanimous struggle for freedom and the rights of man, can never stoop to the condition of buccaneers, banditti, and pirates.

That the pulse of every lover of freedom should beat high, in sympathy with the asserters of the rights of man in every region, is consonant to the nature of man; but that ours should throb with delight at the success, and recoil to the heart on the defeat, of our neighbors, our brothers, inhabiting the same continent, migrating thither about the same period, and under circumstances very similar—with our brothers who were lately suffering, as we did, from the cold and unfeeling oppressions produced on them by their kindred and their friends—is surely not to be wondered at. Similitude of sufferance in a similar and virtuous cause, will find no limit to its feeling. But feeling will not give us the correct standard whereby the course and conduct of the legislators intrusted with the guardianship of the rights and interests of their constituents, but just now successfully emerged from the same arduous and exalted struggle, should be regulated. This feeling must be tempered with sound discretion. Experience must teach us a little prudence. Who is there amongst us, of the most ardent of those whose feelings beat most high in the cause of revolutionary France, and who were most violent in denouncing the conduct and pacific policy of the great Father of his Country, for attempting to restrain those feelings within the limits of a sound and discreet prudence, who did not, when experience had shown us the mad policy of implicating our destinies with hers, who did not offer homage to the wisdom, virtue, and patriotism of that great man? I was one of those who, as loudly as any other, denounced the proclamation of neutrality, and the—as we then called it—arbitrary, illegal, and unconstitutional interference of the Executive, to restrain us from co-operating with our allies in the cause of freedom and the rights of man. The sagacity and virtue

of the patriot now receives that homage and respect which the wild extravagances and ardent intemperance of youth then most vehemently denied. So will posterity act and decide, as to the conduct of our present Administration. However amiable and estimable this ardent sympathy with our Southern brethren, nobly redeeming themselves from an oppressive and odious bondage, may appear, yet a course dictated by sound discretion, and guided by caution and prudence, in an Administration, must meet their approbation. Although some among us may see, in the conduct of the Administration, a one-sided policy; may see, in every one of their acts, from the proclamation of 1815, issued to suppress an expedition said to be organizing in Louisiana, to the order of suppressing the establishments at Amelia Island and Galveston, that all those acts have been on one side; that they all bore against the provinces, against the cause in which the Patriots are engaged; yet, sir, I cannot doubt, that when this course shall be calmly and dispassionately scanned and examined, the judgment of the American people, and of an impartial posterity, will applaud the course, and see in it the result of a wise, virtuous, and patriotic policy. They will discern, in the proclamation issued by Mr. Madison, and in his declarations to the Spanish Minister, that the flag of the Patriots in our ports should be equally respected with every other, nothing but a determined adherence to the dictates of a just and impartial neutrality. They will see in the course of policy pursued by the new Administration, as marked out to us in the President's Message, that the conduct of the Government has been most conciliatory and friendly; as friendly as it could be without engaging in the war on their side. In the declaration, that this contest is regarded, not in the light of an ordinary insurrection or rebellion, but as a civil war between parties nearly equal, having, as to neutral Powers, equal rights, our Government has gone before every Power, and has advanced, in an eminent degree, the interests of the provinces. It has given them countenance, and will increase for them the respect of other nations. The measure now taken is a strong one in their favor. The President, in his Message, has spoken of their rights as being equal to those of Spain. He has sent agents to communicate with them as the Governments *de facto*, and has declared the right of this Government to hold such communications with the provincial authorities. The agents are, it is true, informal, and have no commissions; yet their communications will be not the less respected. Going thither in a vessel of war, will give the stamp of authority to these communications, and cause them to be well received and attended to. This measure in itself, goes far towards a recognition of their independence; it is everything but an express acknowledgment. It gives them the advantages of such acknowledgment, without its disadvantages, and also without too great a commitment of the United States. The other part of the Message, which declares that the United States will not profit of their in-



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dependence, will have a beneficial effect in favor of the provinces. It will dissipate the jealousies of England, and other Powers, and lessen the desire, on their part, to oppose the independence of the provinces. The Government has, therefore, done all that a wise policy and a benevolent feeling towards the provinces could require. They have, also, obeyed the imperious duty of a just neutrality. In the determination to require nothing peculiarly advantageous to the United States to be conceded, on the part of the provinces, a proper regard is had to their situation, and to the embarrassments under which they might be thrown by any undue concessions made. We all recollect, with grateful feelings, the conduct of France towards us in our Revolutionary struggle; but we all remember, too, the embarrassments experienced by us during their revolution, from the guarantee which, by treaty, we had made of their West India possessions. It is wished that the provinces should never be placed in a situation similar to ours, so as thereafter to be subject to any embarrassment from stipulations made by them. They are to be left free to consult their own best interest, and their own true policy. The daily intelligence which we receive from the Island of Amelia, proves the wisdom and prudence of our Government in endeavoring to suppress these establishments. The world will do homage to the magnanimity and justice of the Spanish provinces in renouncing all connexion with these settlements. It will raise the character of the United States, by showing their determination to put down all piratical establishments; that the movements of a people contending for their liberties, are totally different from the establishments of pirates and buccaneers. In entertaining the opinion that the provinces never sanctioned them, as is believed, we show respect to the colonies, and raise their character. It is the interest of the colonies to disavow them, and thereby raise their character with us and with the European Governments. It cannot be doubted they will disavow them, and they amongst us who stimulate them to an opposite policy, are not their real friends, but their worst enemies.

Mr. HOLMES, of Massachusetts, said he should never be opposed to any call for information on any subject, when wanted by the House. But it appeared to him that the call now proposed was unnecessary, since the resolution adopted the other day would embrace the information now desired. He thought the House should wait a day or two, to see whether they would not obtain, without any further call, all the information they desired from the Executive. With this view he moved that the resolution should lie on the table.

Mr. NELSON opposed the motion, urging some of the arguments comprehended in the above substantial statement of his remarks, as a reason against delay.

Mr. ROBERTSON, of Louisiana, read the resolution adopted the other day, calling for information respecting the state of the colonies of Spain in South America, that gentlemen might judge

whether it comprehended the information now desired. It might be that, under this resolution, the President would consider that East Florida formed a portion of the colonies of South America, as well as any other province; and would transmit therefore all the information required in relation to Amelia Island, &c. Yielding to the suggestion of the gentleman from Massachusetts, that in a day or two the House would receive the information desired, Mr. R. thought it would be as well to let the resolution lie until the President's answer to the other call should be received. If that did not comprise the desired information, this resolution might then be taken up and passed.

Mr. MILLER, of South Carolina, was opposed to the proposed postponement of this motion; the objects of which and of that which passed the other day, he said, were totally distinct. The object of that was to inquire into the political state of the Spanish colonies; the design of this was to satisfy the nation that the Executive had acted on sufficient grounds in the course it had taken in regard to Amelia Island and Galveston. This, he said, was a reason sufficient to induce him to vote against laying the resolution on the table. If that motion should not prevail, he should vote for the amendment proposed by Mr. FORSYTH, because the facts on which it was founded would certainly disclose the reasons of the measure. The Speaker had the other day intimated, on the floor of this House, his opinion that every act of the Government, from the proclamation against the expedition said to be fitting out at New Orleans in 1815, to the present day, had been hostile to the Spanish Patriots. Now, Mr. M. said, he looked upon the information called for by the resolution as necessary to repel the reproach, from so high a source, thus thrown on the Government. He therefore hoped the resolve would be suffered to pass.

Mr. JOHNSON, of Kentucky, said he had not understood the Speaker, in debate the other day, to have intimated that every act of the Government had been hostile to the Patriot cause; but that they had leaned to one side of the question; had borne more against the Patriots than against Spain. And, if our acts had any operation at all, who could deny, Mr. J. asked, that what the Speaker had said, was the fact? Was not the proclamation of 1815 of that nature? It was issued in consequence of representations of the Spanish Minister. Being issued at his instance, if it had any bearing at all, must it not have had a leaning against the Spanish Patriots? With regard to the seizure of Amelia Island, if that measure had any operation at all in regard to the two parties, must it not be against the Patriots? Theirs, he said, was a cause which he would not now advocate; but the sentiment avowed by the Speaker was his sentiment; one which he would avow in this House and every where; that whenever our acts had had a tendency to one side or the other, it was to the injury of the Patriots. Not that the Speaker meant to say, any more than himself, that our Government intended hostility to that cause; for, Mr. J.

said, he understood him to have unequivocally said, he had no doubt it would appear that the reasons of the Executive for the measure in question had been sufficient to justify it. Mr. J. was in favor of laying the resolution on the table, until it was ascertained whether the resolution was or was not necessary, in addition to that passed the other day.

Mr. RHEA opposed the motion to lay this resolution on the table, contending that its object was totally distinct from that passed the other day. That proposed an inquiry into the state of foreign nations: this proposed an inquiry into our own concerns—into a matter perhaps embracing a question of peace or war, and on which therefore Congress ought to have full information. If not laid on the table, Mr. R. said he should have no hesitation in voting for the amendment proposed by Mr. FORSYTH.

Mr. HARRISON said that he hoped the resolution would not be permitted to lie upon the table, but that it would be sent to the President for the purpose of obtaining a more detailed account of the circumstances which led to the order for occupying Amelia Island than the Message at the opening of the session contained. The reasons assigned in the Message were not, in his estimation, sufficient to authorize that measure. That which seemed to be most relied upon was, that a negotiation was pending between this country and Spain, for the cession to us of their claim to the Floridas; a fact which, being known to the whole world, ought to have prevented the South American Patriots from attempting any military enterprise against them. Mr. H. said that he could not see the subject in this light.

If, as he believed, Amelia Island gave to the belligerent party which possessed it, a decided advantage in harassing the commerce of the other, he could not conceive that any delicacy towards us, in consequence of the pending negotiation alluded to, should have prevented their taking it. In the unequal contest in which they are engaged—unequal from the disparity of aid and countenance which they have received from all the Governments of the civilized world—they have a right to resort to a measure which would produce great advantages to them, and which was not forbidden by any known maxim of the law of nations. Belligerents sometimes, indeed, in defiance of that law, will occupy a neutral territory, in anticipation of a supposed intention of their adversary. But in this case the territory was not neutral; it was the property of Spain, in the possession of Spain, and a fair object for the martial enterprise of the Patriots. And if, said Mr. H., they had succeeded in conquering all the Spanish part of the Floridas, he did not doubt but it would be as easy to obtain it from them as from the King of Spain. Mr. H. fully agreed with the sentiment expressed the other day by the SPEAKER, that, however well intended or necessary—and he had no doubt that they were well intended, and perhaps necessary—had been the acts of our Government in relation to the war between Spain and her colonies, he was con-

strained to believe that they had borne with unequal pressure upon the cause of the Patriots.

Mr. HOLMES, of Massachusetts, said he regarded the information sought by the resolution as exceedingly important. The fact of the suppression of the establishments at those places so often referred to, attracted the attention of the nation; and he was therefore in favor of the earliest official information on the subject, that the House might understand on what grounds the Executive of the United States had undertaken to suppress these establishments. Mr. H. was, however, of opinion that this resolution was unnecessary, being embraced in the general call made a few days ago, for information on the political state of the Spanish provinces, of which East Florida, embracing Amelia Island, was one: and the same reasoning would apply to Galveston, situated on territory equally claimed by Spain and the United States. If, however, the information now desired should not be necessary, Mr. H. said he should be one of the first to vote for it, considering it highly important. The intention to seize on these establishments had struck him with some surprise, he said, when first informed of the fact; but he had no doubt the reasons for the measure would prove satisfactory to all. He would go with any gentleman, at any time, into an inquiry into the conduct of the Executive; but he thought gentlemen were going too fast now to call specifically for information which it was probable might reach the House before this second call could reach the President. He therefore hoped it would be laid on the table.

The question to lay the resolution on the table was then taken: For the motion 75; against it 81. So the motion was lost.

Mr. RHEA having accepted Mr. FORSYTH's proposed amendment as part of his own motion, the main question was taken on the resolution, and decided in the affirmative, without a division; and a committee ordered to be appointed to wait on the President therewith.

#### TUESDAY, December 9.

Another member, to wit: ELIAS EARLE, from the State of South Carolina, appeared, produced his credentials, was qualified, and took his seat.

Mr. MCCOY presented a petition of Peter Stone and Mary his wife, an honest couple in his district, who represent that they have been united in wedlock's happy bonds for seven and twenty years, in which time they have added to our population twenty children, nineteen of whom are living, and whom they have maintained by the product of their manual labor. Conceiving themselves entitled to the favor of Congress on that score, they pray for a donation of public land, to make their declining years more easy to them. The petition was referred to the Committee on Public Lands.

A petition was presented from C. Hammond, contesting the election of Mr. HERRICK, of Ohio, a member of this House, on the ground of his having, at the time of his election, and until a few

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days before he took his seat here, held the office of Attorney of the United States for the district of Ohio. This petition was read, and referred to the Committee of Elections.

Mr. LOWNDES, from the Committee of Ways and Means, to which was referred so much of the President's Message as relates to revenue, made a report thereon, which was read; when Mr. L. reported a bill to abolish the internal duties; which was read twice, and committed to a Committee of the Whole.

Mr. SEYBERT, from the select committee appointed on the 5th instant, reported a bill, supplementary to the act establishing the Mint, and to the act concerning the Mint, which was read twice, and committed to a Committee of the Whole.

The SPEAKER laid before the House a letter from Richard Bland Lee, Commissioner of Claims under the act of the 9th of April, 1816, communicating "reports of the facts," in the cases of Thaddeus Mayhew, of Louisiana; of William Eadus, of New York; and of the executor of Mrs. George Thompson, deceased, of Virginia; which were referred to the Committee of Claims.

On motion of Mr. TUCKER, of Virginia,

*Resolved*, That the President of the United States be requested to cause to be laid before the House of Representatives information of what roads have been made, or are in progress, under the Executive authority of the United States; the States and Territories through which they pass or are intended to pass; the periods when they were ordered to be made, and how far they have been executed.

Mr. SPENCER, of New York, offered a resolution, with a view to enable him to act understandingly on the Commutation bill; which, after some desultory conversation as to the particular form of it, was adopted in the following shape:

*"Resolved*, That the Secretary of War be directed to communicate to this House the number of warrants issued for military bounty lands, by virtue of any laws of Congress, to soldiers who served during the late war against Great Britain; the quantity of land included in those warrants; and the probable quantity of land which will yet be necessary to satisfy claims for bounty lands under those laws."

The engrossed resolution, directing a distribution of certain laws among the members of the Fifteenth Congress, was read the third time, and passed.

Mr. WALKER, of North Carolina, after referring to cases within his knowledge, in which minors who served in the late army had not, because of their minority, received a bounty in land on their discharge from the army, moved the following resolution:

*"Resolved*, That it is expedient to provide by law, that all minors who were regularly enlisted, in the late or present Army of the United States, and who served twelve months or upwards, and have been honorably discharged, shall be entitled to an adequate bounty in land, or to an adequate commutation of such bounty in money."

This resolve was referred to the same Committee of the Whole, to whom were referred Mr. JOHNSON's resolutions.

Mr. WHITMAN, of Massachusetts, offered for consideration the following resolution:

*Resolved*, That the Committee of Commerce and Manufactures be instructed to inquire into the expediency of providing by law for the apprehending and securing foreign seamen, deserting from foreign vessels while in the ports of the United States, contrary to their engagements to serve on board such vessels.

Mr. W. made a few observations, to show the necessity of such a regulation as that which he now proposed, arising from its expediency, and demanded also by reciprocity. A similar provision existed, he said, in all foreign ports, by which our masters of vessels were able to secure their seamen; and our laws secured to our own vessels in our ports the like privilege. It was obviously expedient, therefore, to extend this provision to foreign vessels also, in regard to which it was more necessary, and to which the remedy was not applicable, unless in cases where it had been erroneously applied by a misapprehension of the law in the case.

The resolution was adopted without opposition.

Mr. CLAIBORNE, of Tennessee, moved a resolution instructing the Committee on Pensions to inquire into the expediency of establishing by law an office for the payment of pensions and Revolutionary claims, within the district of West Tennessee.

Mr. C. explained the object of his motion; which was predicated on the fact, that owing to the location of the pension agent for Tennessee, a person in West Tennessee having business with him might with more ease resort to this city, could it be here transacted, than he could travel to the residence of the agent, &c.

The motion was agreed to.

On motion of Mr. TAYLOR, of New York,

*Resolved*, That the Committee on the Public Lands be instructed to inquire into the expediency of exempting from taxation the military bounty lands in the Missouri and Illinois Territories, for five years after the patents therefor have been issued.

On motion of Mr. INGHAM, of Pennsylvania, the committee on post roads were instructed to inquire into the expediency of establishing a post road from Fort Montgomery, in Monroe county, in Alabama Territory, to Blakely, in Mobile county: and,

On motion of Mr. ALLEN, of Vermont, the same committee were instructed to inquire as to establishing a post road from Burlington to Craftsbury, thence through Strasburgh to Barton, in Vermont.

On motion of Mr. McCox, of Virginia,

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing the law laying a duty on imported salt, granting a bounty on pickled fish exported, and allowing a bounty to vessels employed in the fisheries.

## THE JUDICIARY.

Mr. CLAIBORNE, of Tennessee, moved the adoption of the following resolution :

*Resolved*, That the Committee on the Judiciary be instructed to inquire whether any, and, if any, what alterations and amendments are necessary to be made in the Judiciary.

Mr. C. said, that perhaps no subject would come before the House at the present session, of more importance to the people, than that embraced in his motion. A good Judiciary is certainly indispensable to protect the rights and interests of the people. That certainly cannot be said to be a good one which fails to administer justice. Such, however, Mr. C. said, was the fact in regard to the country he represented. One circuit judge was assigned to Kentucky, Tennessee, and Ohio: the labors of that circuit were too herculean for the constitution of any man whatever. The consequence was, that in Tennessee, being the last district in the judge's circuit, where the cases before the court are numerous and important, there were no trials—for the last five years there had not been perhaps twenty causes disposed of. The time of the judge was so divided as to make it impossible for him to devote the necessary time to the court in Tennessee. Unless some remedy was provided, there was in that State an operative denial of justice as to the laws of the United States. It was unnecessary for him, he said, to go now into detail, and state what alterations in his opinion ought to be made in the judiciary system. That was a wide field, which he had no doubt would be properly explored by the committee having that subject in charge, and fully acquainted with its merits. He hoped that something would at least be done for the relief of the people of Tennessee.

Mr. HOPKINSON, of Pennsylvania, rose, merely to mention the fact, that, at the last session of Congress, two important bills had been reported on this subject by the judiciary committee, but not acted on by the House. He invited the attention of gentlemen to these bills, to see how nearly or remotely they approached to their ideas of a necessary reform of the judiciary.

Mr. CLAIBORNE's motion was agreed to.

## MILITARY ESTABLISHMENTS.

Mr. JOHNSON, of Kentucky, with a view to ascertain the sense of the House on certain points, that the labors of the Military Committee should not be unnecessarily troublesome to the House, and laborious to themselves, submitted the following resolutions to the consideration of the House:

1. *Resolved*, That it is expedient to provide, by law, for the widows of soldiers of the regular army, who were killed in battle, or died in service, during the late war with Great Britain.

2. *Resolved*, That it is expedient to provide, by law, for the disbanded and deranged officers of the Army of the United States, who served in the late war against Great Britain, by donations in land, viz: to a major general, 1,280 acres; a brigadier general, 1,120 acres; a colonel and lieutenant colonel, 960 acres each; a

major, 800 acres; a captain, 640 acres; and subalterns, 480 acres.

3. *Resolved*, That it is expedient to establish, by law, three additional Military Academies, viz: one in the vicinity of Fort Dearborn, in South Carolina; one in the vicinity of Newport, in Kentucky; and one in the vicinity of Harper's Ferry, in Virginia; one-third of the cadets to be the sons of the officers and soldiers of the late army, who died in the service of the United States in the late war.

4. *Resolved*, That it is expedient to establish, by law, an additional National Armory, to be located on the western waters.

5. *Resolved*, That it is expedient to organize, by law, a corps of invalids, to be composed of one thousand men.

6. *Resolved*, That it is expedient to provide, by law, for the repeal of so much of an act of Congress, of the sixth of July, 1812, as authorizes additional pay and emoluments to brevet rank, in the armies of the United States.

7. *Resolved*, That the Military Peace Establishment of the United States shall consist of eight thousand men, including the corps of invalids: *Provided*, That the corps of engineers, the general staff, and the ordnance department, shall be retained as at present established: *And provided, also*, That no part of the army shall be disbanded in consequence of said reduction, but the same shall be effected by permitting vacancies, as they occur, to remain.

8. *Resolved*, That it is expedient to provide, by law, for one additional ration for each of the commissioned officers of the Army of the United States.

9. *Resolved*, That the Committee on the subject of Military Affairs be instructed to report bills, embracing the objects of the beforementioned resolutions.

Mr. JOHNSON accompanied the introduction of these resolutions with a number of remarks appropriate to them individually and as a whole. The first he considered as bottomed upon the principles of consistency and impartiality, which ought to belong to the acts of the Government; which required that the provision made for the widows and orphans of the militia should be extended to those of the soldiers in the Regular Army of the United States. The second resolution embraced a proposition heretofore repeatedly presented to the consideration of the House, and in the adoption of which he thought justice and the honor of the nation were concerned. It had been ascertained to a certainty, he said, what number of officers had been disbanded, and what number retained; and, from a calculation which had been accurately made, it appeared that less than a million acres of land would be required to extend these donations to the officers of the late army, whilst the bounty of land to the privates of that army would require about eight millions of acres. The subject of the Military Academy, repeatedly recommended to Congress by the Executive, and favorably reported on by committees of this House, which was the subject of his third resolution, Mr. J. said, he thought it his duty again to present to the House. In the provision respecting the sons of deceased officers and soldiers of the late army, he had not included the Revolutionary army, because there were no in-

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stances in which the provision could probably operate. The proposition contained in the *fourth* resolution had been likewise frequently presented to the attention of Congress by the Executive, and by committees of the House. The measure it embraced he considered as of vital importance, appealing to the affections and humanity of the House, and one which, he was happy to say, had never been rejected in the House, but always crushed by the weight of more urgent measures towards the close of the sessions. The *fifth* resolution he had presented out of respect to the decision of the House at the last session on the same subject, which decision had been arrested in the other branch of the Legislature, but which he again presented, as it might now meet a different fate. The ground of the proposition was, that brevet rank had its basis in honor and not in emolument, which was now incorrectly attached to it. The *sixth* resolution, for the reduction of the Army, Mr. J. considered as growing out of those he had already offered. He had often seen, since he had a seat on this floor, that members had refused to vote for a particular proposition without an equivalent, or something like a system, which would make an objectionable proposition palatable. As the other propositions he had offered embraced some additional expenditures, he had thought it his duty to propose a reduction of the rank and file of the army to 8,000, to afford, without added expense, the opportunity of establishing these new institutions, which would strengthen the arm of the Government much more than the proposed reduction would weaken it. For, he said, he believed that the several propositions he had made, adopted together, would be worth to the United States, at any time it had occasion for them, full thirty thousand men. The *seventh* proposition was a renewal of one which had been agitated at the last session of Congress, and in regard to which the War Department had fully coincided with the military committee, that such a provision would not only be very convenient, but likewise economical to the United States. In regard to the *eighth* and last resolution, Mr. J. said it had been the opinion of the late Secretary of War (Mr. Crawford) that, in order to keep up to its complement the army of 10,000 men, it would be necessary to augment not only the pay of the officers but of the soldiers; one of these objects he had introduced into his series of propositions. In presenting these resolutions, Mr. J. concluded by saying, he had no apology to make to the House; he had only to consult his own bosom what his duty urged him to do, and act accordingly, never making any motion in this House with a view to give trouble to it, &c.

The several resolutions were received, and referred to a Committee of the Whole House for consideration.

WEDNESDAY, December 10.

On motion of Mr. POPE, the petition of sundry inhabitants of the Territory of Illinois, concern-

ing land titles, confirmed by former governors of the northwestern territories, presented on the 14th of January, 1817, and the petition of sundry inhabitants of Prairie du Chien, presented on the 24th of January, 1817, were referred to the Committee on the Public Lands.

Mr. JOHNSON, of Kentucky, presented sundry documents in support of the petition of Gabriel Winter, which were also referred to the same committee.

On motion of Mr. HARRISON, the petition of sundry inhabitants of the river Raisin, presented on the 6th of February, 1817, were referred to a select committee; and Messrs. HARRISON, FLOYD, and BALDWIN, were appointed the committee.

Mr. NEWTON, from the Committee of Commerce and Manufactures, reported a bill to remit the duty on a painting presented to the Pennsylvania Hospital; which was read twice and committed to a Committee of the Whole.

The SPEAKER laid before the House a letter from Richard Bland Lee, Commissioner of Claims, under the act of the 9th of April, 1810, communicating "reports of the facts" in the cases of William T. Nimmo, Joseph Janney, Lawrence Muse, and William Gordon, William Henderson, and Mottram Ball, all of the State of Virginia; of John I. Pattison, Benjamin H. Mackall, John Manning, John G. Mackall, Mary Frazier, Levy court of Calvert county, and John Ireland, all of the State of Maryland, with the evidence accompanying each; which were referred to the Committee of Claims.

The SPEAKER laid before the House a letter from the Secretary of State, enclosing reports upon the petitions of Winslow and Henry Lewis, and Joseph Forrest, referred to him at the last session of Congress; which were referred to the Committee of Claims.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, enclosing an account of the fund appropriated for the safe-keeping and accommodation of prisoners of war, conformably to the provisions of the act of the 3d of March, 1817; which were ordered to lie on the table.

#### REPRESENTATIVE QUALIFICATIONS.

Mr. FORSYTH, of Georgia, offered for consideration the following resolution, to obtain a decision on a question raised by a memorial yesterday presented, contesting the election of a member from Ohio, and which Mr. F. considered of great importance:

*Resolved*, That the Committee of Elections be instructed to inquire and report what persons elected to serve in the House of Representatives have accepted or held offices under the Government of the United States since the 4th day of March, 1817, and how far their right to a seat in this House is affected thereby.

The adoption of this resolution was warmly opposed by Mr. TAYLOR, of New York, and Mr. JOHNSON, of Kentucky, and was also opposed by Mr. SEYBERT, of Pennsylvania, Mr. LIVERMORE, of New Hampshire, and Mr. W. P. MACLAY, of Pennsylvania, and was supported by Mr. FORSYTH.

It was opposed as a novel proceeding, imposing inconvenient and extraordinary duties on the Committee of Elections, by requiring them to go through the alphabet from A to Z, and inquire into the qualifications of every member of the House. It was also opposed as imputing impurity to the House, not justly attributable to it; since the fact of taking the oath to support the Constitution was *prima facie* evidence that the member taking it was conscious of having violated no provision of that instrument. If we inquire into the qualifications of members, why not also into others, equally prescribed by the Constitution? It was time enough to inquire into the rights of members to their seats, when any specific allegation was made as to the want of qualification of any one or more of them.

To which the mover (Mr. FORSYTH) replied, by expressing his surprise at the opposition to his motion. There was nothing in it, he said, which accused any part of this House, or any member of it, of improper conduct. It neither charged the House with suffering members to remain who ought not, nor any member of the House with remaining when he ought not. The object was to inquire whether persons in certain situations had a right to a seat or not. It was presumed that those gentlemen so situated had examined their own rights, and were convinced of their title to seats here. But as he very much doubted the right of any person so situated to a seat in this House, he wished to have the question settled. If the House should be of his opinion, he should see with great regret any gentleman so situated return even temporarily to his constituents—for temporarily he was sure it would be, and that the House would at the next session, if not at the close of this, have the aid of their judgments and abilities. As to specifying the members who would fall under this rule, Mr. F. said he did not know all there were; he had been informed that there were ten or eleven members, whose right to a seat depended on the decision of this question—he did not know them; if he did, he should have no objection to comprehend their names in his motion. He concluded his observations by disclaiming the intention to impute the least blame to gentlemen who had taken their seats under these circumstances; for they had no doubt satisfied themselves on the question.

The question on the resolution was taken, when there appeared in favor of the resolution 85, against it 85.

The House being equally divided, the SPEAKER, assigning as his reason his desire to have the Constitutional question fully investigated, voted in favor of the motion; which was therefore adopted.

#### REPEAL OF INTERNAL DUTIES.

The House resolved itself into a Committee of the Whole on the bill to abolish the internal duties.

The report of the Committee of Ways and Means, which accompanied the bill, is in the following words:

The Committee of Ways and Means, to whom has been referred so much of the President's Message as respects revenue, report—

That they have supposed that they should best comply with the intentions of the House, by directing their first attention to the repeal of the internal duties, which occupied its deliberations during the latter part of its last session, and has been since recommended by the President. From the report of the Secretary of the Treasury, it appears that the clear revenue which will have accrued during the year 1817, will be about twenty-four millions and a half of dollars, while the ordinary annual expenditure, (including the provision for the extinguishment of the public debt,) is estimated at less than twenty-one millions and a half. While the committee do not consider the importations of the last three years as furnishing a certain criterion for those of future years, they believe, that, without a diminution of our exports, which is not to be anticipated, or a very considerable reduction in their value, the estimate of a revenue under the present laws, of \$24,525,000, as made by the Secretary of the Treasury, may be safely relied on for many succeeding years. No doubt can be entertained, under the circumstances of the United States, as to the propriety of reducing a revenue so far exceeding their ordinary expenses, and the committee recommend a general repeal of the internal duties. This will leave, according to the estimates of the Secretary, a revenue of about twenty-two millions, exceeding the ordinary expenditure by something more than half a million.

Some difficulties will always be found in determining the period at which the collection of a tax shall cease. The consideration, however, of the large proportion of the internal duties which will become payable in January, induces the committee to recommend that all internal duties should terminate with the year 1817.

The entire amount which will have accrued to the Government on account of the internal duties, exclusive of the direct tax, from the 1st of January, 1814, to the 31st of December, 1817, may be estimated at more than seventeen millions, and the receipts for the same time at upwards of fifteen millions.

The following statement will show the receipts of each of the three first years, with an estimate of those of the fourth year.

<i>Accruing duties.</i>	<i>Duties received.</i>
1814—3,262,197 12 -	- 1,910,995 01
1815—6,242,503 55 -	- 4,976,529 86
1816—4,633,799 34 -	- 5,281,111 98
1817—3,002,000 01 -	- 3,000,000 00
Total, 17,140,500 00 -	- 15,168,636 85

#### *Expenses of collection on sums received.*

1814—148,991 78, or 7 8-10 per cent.
1815—279,277 67, or 5 6-10 do.
1816—253,440 42, or 4 8-10 do.
1817—180,000 00, or 6 do.

Total, 861,709 87, or 5 7-10 per cent.

The charges of collection upon this revenue have certainly been higher than those upon the impost. These have, however, been very different at different time. Mr. Gallatin estimated them, in 1800, at something less than six per cent. on moneys collected from the people. Mr. Dallas, in one of his reports, supposes them, including fees, to be about five per cent.



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and they have been still lower in the three last years. This difference in the expense of collecting internal and foreign duties, will not appear extraordinary, when we remember how few are the domestic products, which are subject to duty, and of foreign, which are exempt from it; how long and regularly the impost has been acquiring maturity and improvement, and how frequent have been the changes, and how short the duration of our system of internal revenue.

In abandoning that portion of our taxes which is considered as the most inconvenient, neither Congress nor the nation will form so exaggerated a notion of these inconveniences, as to deter them from again applying to the same resource, when the necessities of the State shall require it. It is one of the duties of Congress to provide, when it can do so, that the revenue shall be collected from sources which may comport with public convenience; but it is a higher duty to provide, from whatever sources the Constitution may have opened to its operation, such a revenue as shall not permit the fate of war, and the most important interests of the nation, to depend on precarious and often extravagant loans. The Government can have no reasonable fear but that the circumstances which make internal taxes necessary, will find in the people a disposition promptly to pay them. The committee believe that in any future emergency, which shall require a resort to these taxes, the House of Representatives will, unhesitatingly, perform their peculiar duty, by instituting them on a scale suited to the occasion.

The bill having been read through—

Mr. LOWNDES, the chairman of the Committee of Ways and Means, made a few remarks of the same bearing as the reasoning of the above report. He took occasion also to say, that it was due to candor and to himself to add, that he should have individually thought it better, instead of a total repeal, to have made a modification of the duties, so as to reduce their amount and lighten their burden, but still to leave part of the system in operation. Believing, however, that the expectation of the total repeal was such as to render vain any attempt to discriminate, or to modify, he had concurred in the course adopted by the committee of recommending a total repeal, in preference to retaining the whole.

Mr. WILLIAMS, of North Carolina, heartily concurred in the sentiment of the gentleman from South Carolina, that these taxes ought not to be retained for the purpose of adding to the surplus in the Treasury. He rejoiced that, whether gentlemen voted on the subject from the spontaneous determination of their own minds, or the recommendation of the Executive, the taxes were to be repealed. He congratulated the country, that from this time the people would be exempted from a system as unequal in its operation as it was unjust. Our citizens, he said, had sustained it with a patience and long suffering which was remarkable, and afforded a pledge that, should it be necessary hereafter again to resort to internal taxes, the Government might do so, and trust to the good sense of the people for their justification. The people, he argued, were always willing to pay taxes, when the necessity of them was apparent. But, for more than a year past, that neces-

sity had not existed for the internal duties, and, therefore, the people had demanded the repeal of them. Mr. W. referred to the estimates of the revenue from imposts, for the present and last years, to show that the actual product had nearly doubled the estimate, as had been shown and predicted by the gentleman from Virginia, who was his able coadjutor at the last session, (Mr. JOHNSON,) and himself. He mentioned these facts, he said, to show that, if there was any blame anywhere for the occurrences of last session having reference to this subject—and blame had been imputed—the blame belonged to those who opposed the repeal of the taxes at that time, and not to those who advocated it. We rejoice, now, said Mr. W., that the President has thought proper to recommend the measure, and that there appears to be an unanimous disposition at this time favorable to it.

No further remarks being made on the general object of the bill—

Mr. TALLMADGE, of New York, moved to amend the bill so as to except the duties on sales at auction from the general repeal proposed. He assigned as a reason for this motion, that he believed that tax to have a beneficial operation, as imposing an additional burden, however small, on foreign products, protecting the fair dealer, and so far also serving as an encouragement to our manufactures.

Mr. LOWNDES opposed the motion, though not unaware of the beneficial effects imputed to the duty on sales at auctions, in which he himself, in a degree, believed. But he opposed the retaining it, because it would require the machinery of taxation to be retained for this object, making the collection of the duty very expensive and inconvenient to the Government. The benefits arising to the community from the tax, he said, would not probably be lost, for he believed, that when the tax was relinquished by the United States, it would be immediately substituted by a like tax, wherever it was important, for corporation and State purposes.

Mr. TALLMADGE spoke in support of his motion, and anticipating the contents of petitions on this subject which he expected would be laid before Congress at the present session, he took a view of the process by which, by the aid of vendue sales, foreign merchants deprived the Government of a part of its revenue, and superseded the fair merchant in the market, &c.

Mr. WHITMAN, of Massachusetts, opposed the motion. In some of the large importing cities, he admitted, the Government might, with much propriety, derive a revenue from this source, where the duty would have the operation attributed to it by Mr. TALLMADGE; and, if a discrimination could be made, he should be willing that in those commercial depots the tax might be suffered to remain. But, he said, in the smaller seaports, in the towns and villages, this duty was, almost without exception, levied on the necessitous and the poor, whom it was neither the policy, nor could it be the desire of the House to make liable to a tax, to the exclusion of others.

He believed, besides, that the cost of collection of the tax, if retained alone, would not fall short of the amount of the duty, if it did not exceed it.

Mr. STORRS, of New York, supported the motion on the same grounds as Mr. TALLMADGE, and stated extensively the operation of the system, under which the country was deluged with goods by the foreign dealers, with advantages in their favor, by the aid of the vendue system, which favored false invoices, against which no fair merchant could compete. He argued, besides, that in so far as the operation of this duty was to favor the fair merchant, and to embarrass the foreign merchant in his object of glutting our market with foreign supplies, it operated as an encouragement to our manufactures. As to the operation of this tax on the poor, the numerous exceptions from its operation, contained in the law, in a great degree obviated that objection.

Mr. SMITH, of Maryland, opposed the motion, also at some length. The object of the gentlemen from New York was very desirable, could it be obtained by retaining this duty. But that, he argued, was impossible. He admitted, to the extent his belief in the existence of extensive frauds on the revenue, against which he thought scarcely any provision would be sufficient to guard. A duty on sales at auction, to produce the desired effect, ought to be so high as to amount to a prohibition, discriminating, however, between the articles exposed for sale, and applying the duty particularly to dry goods. He did not know, he intimated, but he might go with the gentlemen in favor of some measure of this nature when fairly presented to the House. But he thought that question should be taken up on its own footing, and not be suffered to interfere with the repeal of the small unimportant existing duty, &c.

Mr. CLAY (the Speaker) also opposed the amendment; at the same time that he did not materially differ from the gentlemen from New York, in their views of the evils arising from the circumstances they had referred to. But he argued, and proceeded to show that some of those evils did not proceed from sales at auction, but from defects in our revenue laws, or in the administration of those laws; to which subject he earnestly invited the attention of the Committee of Ways and Means, as greatly to be deprecated. The system of sales at auction Mr. C. did not consider an evil of such magnitude as represented; but, fairly conducted, as a benefit to the community, as affording goods to interior merchants, &c. at a less cost of commission, profit, &c. than if brought from the shelves of the wholesale dealer. Mr. C. dwelt on the importance of protecting our manufactures, by correcting abuses of the revenue system. He believed the fair dealer had much cause to complain, and was happy in saying that he believed the frauds in the revenue to which he had referred were not attributable to the American merchant, but to the host of dealers cast on our shores by the present state of Europe, and invited here by the prospect of advantageous markets. The remedy was not to be

found, he concluded by saying, in a duty of one per cent. on sales at auction; you must go deeper: it was in the entries at the custom-house, &c. that the evil must be sought and corrected.

Mr. TALLMADGE said he and his colleague had been entirely misunderstood if it was supposed that the simple retention of this duty was their sole object. Their intention, he said, was to pursue the subject in detail, the present motion being intended only to bring the matter before the House, with the hope of obtaining a decision favorable to their ultimate views. Although not objecting to an augmented duty on sales at auction, as suggested by Mr. SMITH, he thought it would be better to suffer the present duty to remain, and let the auctioneers go on in their usual course in preference to breaking in upon the system, and then reinstating it, &c.

Mr. LOWNDES spoke again in opposition to the motion, on the ground that the repeal should be total or none. If one exception were granted, the same reasoning would admit others till the object of the bill was defeated. Mr. L. replied to suggestions which had fallen from Mr. SMITH and Mr. CLAY. He was not persuaded that any decisive injury resulted from sales at auction; and if not productive of considerable convenience to the community, they would not be generally resorted to. He was not, therefore, in favor of putting a stop, by prohibitory duties, to a mode of traffic generally adopted, and convenient both to the buyer and seller. To the continuance of the present duty he was decidedly adverse, if for no other reason, for the great inconvenience which would attend the collection if retained.

Mr. STORRS stated the manner in which he thought the duty might be readily collected, through the agency of collectors of the ports, &c.

The question being taken on Mr. TALLMADGE's motion, it was decided in the negative by a large majority.

Mr. LITTLE, of Maryland, moved to amend the bill by introducing a provision that if, during the late war, any distillers had received licenses from the Government which they were prevented from using by the events of the war, on proper representation to the Treasury of such cases, the duties paid should be refunded in proportion to the time lost.

Mr. LOWNDES suggested that this was a provision too general, and related to cases on which the House could decide individually with more propriety than in a general manner.

Mr. LITTLE declined withdrawing his motion, and stated the case of a gentleman in Baltimore during the late war, all whose workmen in his extensive distillery were withdrawn for military service, and not only their time; but the materials provided had been destroyed. He thought this a proper opportunity for providing for such cases generally.

Mr. L.'s motion was negatived.

The question was put on reporting the bill to the House—

Mr. BALDWIN, of Pennsylvania, expressed his desire of further time to reflect on this subject,

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thus early called up. He was not satisfied, he said, from what he had seen, that the expenses of the Government could be paid without the aid of the internal taxes. It was very doubtful to him, from the slight view he had taken of the Treasury report, whether they could safely be repealed. He found, in that report no estimate was made for the additional expenditure for public buildings, and for several other objects. A bill was now before the House, he said, for commuting military bounty lands for money. The amount of expenditure this measure would involve, would be ten millions of dollars. There was in the estimates no provision for this contingency. In looking at the estimates he did not see from what source these moneys were to accrue, if voted. So important a bill as this, he thought, ought not to be hurried through the House. It had come by surprise on the members, who could not have had time fully to examine the details of the bill. For himself he was not disposed to act on the calculations of others, when he had time to make his own. He thought he saw weighty reasons why the bill should not pass as it stood; and he did not know that the public exigency required a bill of this kind to be hurried through without affording time, to the new members particularly, to examine how far the calculations of the revenue at the Treasury would agree with the fact; to compare the estimates with results, and see how former predictions on this head had been verified. For his part, Mr. B. said, he should be unwilling, on coming here at the next session, to pass a law for a loan to supply any deficiency in the revenue. Mr. B. concluded by moving to rise and report progress, and ask leave to sit again.

Mr. LOWNDES opposed the motion with great reluctance, because desirous to afford time to every one to reflect on public measures; but the reason why an early decision on this bill was urged, had been freely stated by the committee in their report, and he hoped would be satisfactory. It would be supposing very material errors in the Secretary of the Treasury, as well as in the Committee of Ways and Means, to presume, after the statements they had made, the probability of a deficiency in the revenue, when it was estimated that, in the year 1819, there would be a surplus of nine millions in the Treasury, after paying the liberal appropriation for the redemption of the public debt.

Mr. BALDWIN, referring to the Treasury report, said, that it appeared that the balance estimated to be in the Treasury in 1819, was stated to be applicable to the redemption of the Louisiana stock.

Mr. PIRKIN, of Connecticut, said, that from the examination which the Committee of Ways and Means (of which he is a member) had made of the subject, the House need be under no apprehension of any want of money. As to the Louisiana stock, the Government might or might not redeem it at the time specified, being bound only to redeem it in instalments of three millions annually; then to commence. The estimates of

revenue heretofore made by the Treasury, Mr. P. said, had fallen much below the mark. They had last year calculated on twelve millions from imposts; the actual product had exceeded twenty. There was not the least apprehension of any deficiency of revenue. If there were, he might remind the House that, of the ten millions annually appropriated for the payment of the public debt, after the present year, and certainly after the payment of the Louisiana debt, five millions only can be applied to the payment of the public debt, except to the remnant of the old deferred stock. The remaining five millions must then either be idle in the Treasury until the year 1825, or be applied to the purchase of debt above par, if it cannot be got at par. It would be seen, therefore, that no difficulty could be apprehended from the want of revenue. Mr. P. added, if it were not important that this bill should pass within the present year, he would, with pleasure, consent to its postponement.

The question was then taken on Mr. BALDWIN's motion, and negatived.

The Committee rose and reported their agreement to the bill, without amendment.

On the question to engross the bill—

Mr. BEECHER, of Ohio, said he was not sufficiently acquainted with this subject to act conclusively on it, and he presumed others might be in the same situation. To give them time to examine, he moved to adjourn.

This motion was lost by a large majority; and the bill was ordered to be engrossed for a third reading to-morrow.

THURSDAY, December 11.

On motion of Mr. PARRIS, the Committee on Naval Affairs were instructed to inquire into the expediency of altering the rank and emoluments of surgeons in the Navy of the United States.

On motion of Mr. SCOTT, the Committee on the Public Lands were instructed to inquire into the expediency of providing by law for the establishment of land offices for the sale of the public lands in the Missouri Territory, at the following places: at the town of Arkansas, in the county of Arkansas; at the town of Jackson, in the county of Cape Girardeau; at the seat of justice, in the county of Lawrence; and at the seat of justice, in the county of Howard.

On motion of Mr. HOLMES, of Massachusetts, *Resolved*, That the committee on so much of the President's Message as relates to roads, canals, and seminaries of learning, be instructed to inquire into the expediency of providing by law for constructing a navigable canal to unite the waters of Lake Michigan with the waters of the Mississippi.

*Resolved*, That the same committee be instructed to inquire into the expediency of providing by law for constructing a navigable canal to unite the waters of Tennessee river with the waters of the Tombigbee.

*Resolved*, That the same committee be instructed to inquire into the expediency of provi-

dging by law for improving the navigation of the Tennessee river.

On motion of Mr. SAMPSON, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of establishing a post road direct from the east parish of Bridgewater, through Halifax, Plympton, and Kingston, to Plymouth in Massachusetts.

On motion of Mr. HENDRICKS, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of placing William Samuel, of Harrison county, in the State of Indiana, on the pension list.

The same committee were also instructed to inquire into the expediency of placing James Andrew, of the county of Orange, and State of Indiana, on the pension list.

Mr. BASSETT submitted the following proposition of amendment to the standing rules and orders, which was read and laid on the table until to-morrow:

When any motion or proposition is made, the question, "Will the House now consider it?" shall not be put unless it is demanded by some member, or is deemed necessary by the Speaker.

On motion of Mr. BASSETT, the Committee of Accounts were instructed to inquire into the manner in which the contractor performs his engagement for printing and for stationery to this House, and report thereon.

On motion of Mr. FORSYTH, the Secretary of War was directed to lay before this House the account of the sums awarded to the different claimants by the Commissioner under the act entitled "An act authorizing the payment for property lost, captured, or destroyed by the enemy while in the military service of the United States, and for other purposes," passed the 9th of April, 1816, and the Act to amend the said act, passed the 3d of March, 1817, the species of property for which they were respectively awarded, distinguishing what sums have been paid, and the causes which delay or prevent the payment of the residue.

On motion of Mr. MARR, the Military Committee were instructed to inquire into the expediency of making provision for such officers and soldiers of the militia as have become disabled in consequence of diseases contracted while in the service of the United States, and for the widows and orphans of those officers and soldiers who, from like causes, have died since their return home.

On motion of Mr. SPENCER, the Committee on the Judiciary were instructed to inquire whether any, and if any, what legal provisions are necessary to prescribe the effect which the public acts, records, and judicial proceedings of each State shall have in the courts of every other State. And that the same committee be also directed to inquire whether any, and if any, what further provisions by law are necessary to insure a more prompt publication of the Laws of the United States, and a more speedy and general distribution of them throughout the Union.

On motion of Mr. MERCER, *Resolved*, That the President of the United States be requested to cause to be laid before this House a return of the present strength of the Army of the United States, with the distribution thereof among the several military posts which it is designed to protect, together with any information which he may be able to afford, respecting the competency of such force to preserve and defend the fortifications among which it is distributed, and to aid in constructing and to defend such other military works, if any, as it may be in the contemplation of the Government to erect for the more effectual security of the United States, and of the several Territories thereof.

On motion of Mr. COBB, a committee was appointed to inquire into the claims of certain detachments of the militia of Georgia for services performed in the defence of that State during the years 1793 and 1794, by order from the Executive of that State under a discretionary power communicated by the War Department, with leave to report by bill or otherwise. Messrs. COBB, ALEXANDER SMYTH, WILLIAMS, of North Carolina, TERRILL, MASON, BENNETT, and EARLE, were appointed the committee.

On motion of Mr. SMITH, of Maryland, the Committee of Ways and Means were directed to inquire whether any, and if any, what amendments are necessary to the act entitled "An act to regulate the duties on imports and tonnage."

The bill for continuing the Mint establishment at Philadelphia passed through a Committee of the Whole, having been called up by Mr. SEYBERT. The bill was ordered to be engrossed for a third reading without opposition.

#### REPEAL OF INTERNAL DUTIES.

The engrossed bill for the abolition of the internal duties was read the third time.

Mr. WALKER, of North Carolina, said he had no doubt of the passage of the bill; but, as the House was about to take leave of an old acquaintance, the internal taxes, which this bill proposes to repeal—on which he cheerfully congratulated his fellow citizens—he called for the yeas and nays on the passage of it.

The question having been stated "Shall the bill pass?"

Mr. HOPKINSON, of Pennsylvania, rose. To oppose a measure which had been recommended by the President, and would most probably be most joyfully received by a great majority of the people, he said, would be an effort so utterly hopeless of success, as almost to amount to an absurdity. He should not attempt it; but at the same time it seemed to him to be both an official and conscientious duty to express and act upon the opinion he really possessed upon every important question of legislation upon which he was called upon to vote. In the performance of this duty, he said, but without troubling the House with an unnecessary and useless discussion, I must give my voice against the total repeal and extinction of our system of internal taxation. I hold it to be unwise in any nation,

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particularly in a nation now mingling largely, and somewhat keenly, too, in the great national concerns of the world, and of course exposed to all the dangers resulting from such connexions, to deprive itself of the only sources of revenue which it can command and rely upon at all times and in all seasons, whether the political atmosphere be disturbed and shaken by the storms of war or reposes in the tranquillity of peace. We are not without a sad and calamitous experience on this subject; and have seen and felt how ruinous it is to wait until the enemy lines our coast and cuts off the possibility of receiving supplies to our Treasury from external sources, before we set about to organize a system for producing revenue from within. If the people are ever so willing to bear the burden when necessary, the time required to raise the revenue will be a period of embarrassment to the Government, of distress to the public credit, and disreputable loans, allowing a heavy discount to the lender. I would avoid such calamities by keeping up a reasonable and moderate system of internal taxation on objects properly selected and judiciously collected. I have no fondness for oppressing the people. Why should I have? I must expect to bear my share of the burden. But it is better to draw a moderate supply from them in the time of their prosperity than to come down upon them with a pinching oppression in the day of difficulty. The honorable chairman of the Committee of Ways and Means, with the discretion and reflection which belong to him, admits the proposed repeal is founded on our state of peace, and its probable continuance with all the world, and frankly declares that if our foreign relations were otherwise, he would oppose the repeal. Are we not, sir, trusting too much to this *if*? Yes, sir, *if* we could be assured of perpetual peace, we might do many excellent things, and avoid many evils. Do we not keep our army and navy because war *may* come? And should we not for the same reason keep up the means, and the only means, by which we can maintain this army and navy when their aid shall be required? We are to expend a million a year to augment the navy, and much more than this to support the army, both of which will be useless if we are never again to be troubled with war. Besides, sir, if I do not misjudge some indications already exhibited, we are about entering a path which, if pursued, may lead us to tread down the powerful hypothesis resting on this momentous *if*, and bring us again to the field of slaughter. If we really have too much money, (which, by the bye, is a story we heard once before,) why not remove the impost from salt; reduce the tonnage; reduce the duties on sugar, coffee, tea, and other articles, no longer luxuries, but necessities of life for the poor as well as the rich, why not expend the surplus in the internal improvement of our country, so loudly called for and so much required? I shall trouble the House no further on this subject than to say that, while I oppose the general destruction of all the internal taxes, there are some of them I would gladly dispense with.

Mr. BALDWIN, of Pennsylvania, said, it appeared to him to be a singular thing, that whilst, only three years ago, Congress were legislating these taxes into existence, and paying a premium of thirty per cent. to the usurers for money, they should now be legislating on what was called a surplus revenue; not surplus in fact, but in anticipation. He knew, he said, that it was not permitted to him, and to other young members, to take time to give a due examination to the subject—he had requested it yesterday, and been refused, and he was therefore obliged to go into the subject without much consideration. Referring to the estimate of the Treasury, of the expenditures for the ensuing year, he found a variation between those for the present year and for the next, for which he could not account. The estimate for the Army, for instance, was two millions less this year than the last—on what data formed he did not know. Nothing had appeared which satisfied him that Congress could do justice to the country in taking off the taxes on estimates of this kind, when there was no certainty that they were correct. If we have this surplus revenue, why not, as had been justly remarked by his colleague, take off the taxes from the necessities of life? It had been said, that the imposts were collected at less expense than the internal revenue. But what was the comparative expense to the consumer? If he pays his money in taxes directly to the collector, he pays no more than that; but if he pays it on the increased price of the commodities he consumes, he pays heavy commissions likewise to the importer, the wholesale and retail dealer, through whose hands the articles pass. I do not know, said Mr. B., why we in the West, who are so much interested in this view of the question, should be permitted to pay our taxes directly to the Government, instead of paying the increased amount charged on foreign goods. The repeal of these taxes, he said, he believed to be fraught with consequences highly injurious to manufactures, as tending to produce objection to the imposition of any protecting duties on imported manufactures, which would be asked of Congress. He was sure, he said, that public opinion did not require the repeal of the internal duties; and, he believed, that those who should vote for this bill, under the impression that they ought to follow, and were following, public feeling, would find they were taking a wrong course. He believed that the repeal would be unpopular; that the people were no longer to be misled by names, and already saw that it was better to pay their taxes directly than indirectly to the Government. Mr. B. said, he was unwilling to trust to the assurance of the Committee of Ways and Means, that taxes would be again laid whenever necessary. When were these taxes laid, Mr. B. asked? Not until the third session after the war was declared; it was not until the Government was destitute of means, that the taxes were imposed—and before the proceeds of them flowed into the Treasury, the stock of the Government had been hawked about to any bidder, and the Govern-

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ment itself had become the prey of every shark usurer in the stock alleys of the nation. When the taxes should be again wanted they would be again delayed, till the nation was on the verge of bankruptcy. However those might think who recommended the measure, and those who were now precipitating it through the House, the public opinion, he was satisfied, was on the other side. He represented a part of the country which might be supposed to be interested, and the people there were opposed to the repeal, which he believed with them, to be hostile to the best interests of the West. Mr. B. said, he did not wish to enlarge on the subject—he knew it was useless; and if the gentlemen who were pressing forward the measure thought they were running the race of popularity, he should impede their progress but a few minutes. But he wished gentlemen to reflect a moment, whether the substantial interests of the country would not be seriously injured by the measure. It would appear to him, he said, before repealing these taxes, they ought to wait towards the close of the session, and see what expenditures Congress might authorize. Propositions for providing for the widows and orphans, of soldiers killed in battle, for erecting three additional military academies, for establishing a corps of invalids, &c., were before the House, and a bill had been already reported for commuting soldiers' lands for money, which, if passed, would of itself require ten million dollars. Whence is this money to come? In reply to the suggestion of a want of present objects to which to apply the surplus of revenue, Mr. B. said, that objects could not be wanting as long as the twenty-one millions of stock of the United States subscribed to the National Bank remained unredeemed. It appeared from the Treasury report, that during the present year only eighteen millions of stock had been redeemed altogether: among the particulars of information, the want of which he felt, Mr. B. said, he should like to know how much of this eighteen millions was that which had been subscribed to the bank, and what portion was of other stock. If ten or eleven millions of that stock were, as he presumed, yet redeemable, it would take away one strong argument for the repeal of the taxes, by affording an object to which to apply the surplus revenue. There were, Mr. B. concluded by saying, various considerations which pressed on his mind against the passage of this bill; but he wished not to take up the time of the House. He had briefly stated some of the reasons why he conceived the bill impolitic and of a ruinous tendency to the important interests of the country.

Mr. SERGEANT, of Pennsylvania, next spoke to the question. In the threshold of his remarks, he disclaimed all intention to enter into the race for popularity, which had been spoken of. On a subject of this kind, there ought to be a belief that the members were all actuated by fair motives, particularly on a question where, it appeared to him, the weight of the argument was in favor of the repeal; and it was to endeavor to show,

that, in voting to repeal the internal duties, the members of the House might act from reason, and not from a desire of popularity, that he rose. In the first place, with respect to the system of internal taxation, he said he was not apprized how the argument applied which recommended the continuance of a system; because the greater part of the system which had been established, the very bone of it, had been taken out, and there remained some half dozen of taxes which seemed to have been left, not as constituting a system certainly, but to guard against the possible chance of a deficiency in the revenue. Let gentlemen look at the taxes remaining, and see whether they did not present themselves in that view to them. Now, it appeared to him, Mr. S. said, instead of talking about maintaining a system, gentlemen should turn their attention to the taxes individually, and see whether there was any one of the taxes which, on the ground of its own merits, ought to be preserved. To at least four out of six of the taxes which remain, Mr. S. said he had, on general grounds, decided objections, and would prefer very much, if the revenue derived from them was necessary, that it should be collected from other objects. He instanced as a duty particularly objectionable, that on the refining of sugar—a valuable branch of domestic industry—which, at former periods, had been specially fostered and encouraged, by drawbacks, &c. This branch of manufactures was exceedingly oppressed by this tax, as was well known to many members who represented the towns where it was carried on. The tax on retailers of foreign articles was also extremely oppressive, falling without discrimination on every one who was honestly endeavoring by retailing to obtain a livelihood, and who was obliged to mix the smallest particle of foreign produce in his assortment: and we have seen the small dealers vanish under the operation of the tax. The duty on stamps too was objectionable, as operating only on a particular class of citizens, and that class the industrious and enterprising one. It operated not on the capitalist; not on the man who has money—for he has no occasion to go into bank for more—but on those who are benefitting the public by their activity and employment of borrowed capital. To the remaining taxes he had no particular objection, and if he saw any necessity for it, would be willing to continue them. But why continue them? To be prepared for war hereafter, and not overtaken by difficulty when it comes? If ever (said Mr. S.) there was a period in this country when there was a stronger possible appearance of a continuance of peace, he had no knowledge of it. He knew not from what quarter hostilities could be expected; and he was sure he saw no disposition in this House to involve the nation in war. Mr. S. said he would not recur to that period when these taxes were laid, nor say whether it was too soon or too late; but the argument which had been derived from that retrospect seemed to him to prove too much. For a man puts on his armor when he goes into battle, and when he comes out he puts



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it by. If you foster the interests of the citizen, by relieving him from burdens in those avocations which enrich him and the country, it is then you prepare the armor to be put on in war. Mr. S. said he had still another objection to retaining these taxes. He believed we could not long have a surplus in the Treasury. If we began with a large surplus, means would speedily be found of spending it, and that probably in projects not the most useful or advantageous to the community: and, if the taxes were retained, we should find ourselves soon without a surplus, and in the case of emergency instead of reinstating repealed taxes, would have to lay new taxes, in addition, to the same amount as those already existing. He would not inquire, he said, whether it was popular to keep the taxes on or take them off; but he held it to be the duty of this House to the people, when there was revenue enough to meet the public expenditure, not unnecessarily to continue the public burdens.

Mr. HOLMES, of Massachusetts, said, the prayer of every Republic ought to be, give me neither poverty nor riches. A young Government, like a young man, was very apt to be ambitious; and when we have money, we have an opportunity of gratifying that ambition. Another objection to having more money than we want, was, that it created too many calls on the Treasury. We have already found out that we have a small surplus in the Treasury; and it has already generated a great many claims on it. He presumed that, before the end of the session, where there was one thousand dollars of surplus, there would be a million of demand. It would be rather a singular position to find the House of Representatives in, that they who hold the purse-strings of the nation should be urging money into the pocket of the Executive. We are told by the Executive, said Mr. H., that there is no need of these taxes; on that branch of the Government would fall the responsibility, if the Treasury should become as empty as some apprehended, and we should require money when we cannot obtain it. As regarded a system of internal taxation, Mr. H. said he hoped that he should never see, in this country, such a system established. He hoped internal taxation would only be resorted to when the exigencies of the country required it; and then, and then only, would the people endure it. It is odious to the people; so much so, in principle, that there was great objection, at the formation of our Constitution, to giving to the Congress the power to lay internal taxes. He said he believed that at this time, whether it was popular or unpopular to relieve the people from these taxes, it would be best for them to be repealed; as indeed he rather inclined to believe that the people themselves thought. He should be unwilling, for himself, to take any share of the responsibility of continuing a broken system, as it had been aptly described—an imperfect and unequal system of internal taxes. If the system were a perfect one; if it bore equally on all classes of citizens; if it were such a system as was both necessary and proper, there might be a

reason for retaining it: but, having none of these qualities, he would put an end to this mutilated fabric of taxation. He was, he said, in favor of keeping up the Army as a military school; the Navy, too, he hoped would be always cherished, to defend our rights on the ocean, as it once has done. Both these objects should be well attended to; but, if we had already revenue enough for both, and for all other expenses of the Government, and for the rapid redemption of the public debt, without the aid of these taxes, why should they be retained? He was for giving an opportunity for our people to be prosperous, that, when their direct aid shall again be necessary, they may be in a condition and disposition to come forward and cheerfully contribute it. But, Mr. H. said, he apprehended the recurrence of no such state of things as we had lately seen. Our trials have passed: we have seen the worst evils of our day.

Mr. DARBOUR, of Virginia, said that, although he was satisfied this bill would pass, and although, when he came into the House to-day, he had nothing like an intention of uttering one word upon it, he thought it his duty to vindicate the principles which guided him in his vote on the bill before the House. He premised that, in giving his vote for this bill, he was in no degree influenced by a desire for popularity, except that be a desire for popular favor which prompts us to decide correctly, according to our impressions, when the interest of the nation is concerned. Passing from that remark, he came to the question whether, under existing circumstances, it be or be not good policy to retain the system proposed to be repealed. He begged leave to remark that, according to his idea of the theory of our Government, it was never expected by the framers of the Constitution that internal taxation was to be a permanent policy of our Government. Looking into the book from which we derive most of our ideas on the theory of our Government, and which might be regarded as a contemporaneous exposition of the Constitution, it appeared that taxes on exports were expected to be the principal source of revenue. This was not only the intention as he believed, of the framers of the Constitution, but it was most correct in principle, because most convenient to the people. He would not go into an examination of the relative merits of the two systems of internal and external taxation: it was sufficient to remark, on this head, that the one was compulsive, the other voluntary. In any event, the system of exterior taxation was to be continued; and, if it were abundantly productive for the necessities of the Government, what need to retain, also, the system of interior taxation? What, Mr. B. asked, are taxes? Contributions of the people to the maintenance of the Government when its wants are such as to require them. When it is demonstrated that any part of these taxes are not wanted, it is not only the duty of Government, but it is its soundest policy to repeal them. Are they, then, wanted? said Mr. B. Look at the exhibition of the state of our finances, and a bare glance

affords an answer to the question. It appears that such is the state of our revenue, that we have within the past year redeemed eighteen millions of a public debt, the whole amount of which did not much exceed an aggregate of a hundred and twenty millions. It appeared, also, that, after the Yazoo stock and Louisiana debt were paid off, we should have, not only a sum equivalent to all the expenditures of the Government, but exceeding that amount by five millions annually, up to the year 1825, which is the first moment that the war loan of 1812 is redeemable, by the terms of the contract for it. Shall we undertake, then, to lay or to continue taxes, not because we do, but because we may, want the money? I shall not, said Mr. B., be among the number of those who refuse to lay taxes when the present necessities of the Government require it, or when it is probable that they will. But, he said, he held it to be bad policy to lay taxes when not wanted; not only because useless, but because the people could always make the best use of their own money, and to collect it into the Treasury would be to withdraw the means by which manufactures, agriculture, and commerce were fostered and the national wealth enlarged. And to withdraw it for what? To lie idle in the Treasury? It could not, Mr. B. said, be the object of gentlemen to take from the people money which was advantageously employed in their own occupations, and thereby enhancing the general prosperity, to become a mere *caput mortuum* in the Treasury of the United States, and thus lose the advantage of capital otherwise actively employed. The wealth of the people is the wealth of the Government, which is enriched by the prosperity of the people. It remained to be seen whether the Government could use the revenue arising from internal duties. Mr. B. proceeded to show that they could not. In 1819, he said, the Louisiana debt would be extinguished. What then should be done with the surplus revenue? Should it lie idle, or should the Government go into the market and purchase up the public stock? That stock was already above par; and was it not evident that every dollar purchased, at least until the time approached when it might be redeemed, would contribute to put it more above par? From Mr. B.'s examination of this point, he inferred the Government could not make use of the proceeds of these taxes, if they should be retained. He could not see the correctness of the reasoning, he said, which would lead the House to the conclusion that, because it was proper in peace to prepare for war, therefore money should be drawn from the pockets of the people which could not be used. He would keep up a small army; he would increase the navy, because it could not at once be called into being on occasion. But though a navy could not, a system of taxation might, and there was therefore the less occasion unnecessarily to draw money from the pockets of the people. If the Government did not redeem that part of its funded debt which constituted its portion of the capital of the Bank of the United States,

the money accruing to the Treasury, without these taxes, could not be used; but, if that stock was to be redeemed, which was optional with the Government, still there would be money enough without these internal taxes for all the purposes of the Government. Was it not then wise policy to repeal the taxes? Was it not a wise policy to repeal them because the people looked for it? The internal duties were considered as war taxes, imposed for the occasion, and cheerfully paid; but would not be willingly borne when the necessity which called for them had ceased. In a time of peace, moreover, to keep up two systems, one of internal and one of external taxation, was extremely inconvenient; and when the system of internal taxation was reduced to its present extent, the expenses of collection bore too large a proportion to the amount, and put into the pockets of the collectors what would be much better in the pockets of the people. In short, every consideration, Mr. B. said, recapitulating those which he had adverted to; combined to bring his mind to the conclusion that this bill ought to pass. There is no nation in the world, he added, there never was a nation, whose sinking fund bore so large a proportion to its debt as this. Look at the English sinking fund; compared with ours it is scarcely dust in the balance. Mr. B. said he desired to see a large sinking fund; but there was a point beyond which that ought not to be increased; because its burden became, by the augmentation of our population, every year diffused over a greater surface, and with less pressure on each individual. Whilst he would not suffer the national debt to lie as an incubus on the nation, he would not discharge that debt by oppressing the people. Mr. B. concluded by saying that the internal taxes were now useless; worse than useless, as having the effect of rendering a large amount of the capital of the country 'unproductive; that they were unnecessary now, and unnecessary prospectively; because, whenever necessity demanded it, there was energy enough in the people to call into action the resources of the nation; and sufficient for the day was the evil thereof.

Mr. JOHNSON, of Virginia, said he had not intended to have opened his lips on this question, and should not have done so but for the remarks of the member from Pennsylvania, (Mr. BALDWIN.) He, it seemed, would not enter into the race of popularity. With due respect to the Chair, Mr. J. said, he had thought this remark ought to have received its animadversion—

The SPEAKER, interposing, said, that the remark had not escaped his attention, and would have been noticed by him, had he not presumed it to have been inadvertently made, and not intended to bear that construction which might be given to it.

Mr. BALDWIN rose in explanation. He had not intended, he said, to use the expression in an offensive sense; he had no design of that sort. He meant merely to say, if any gentleman were disposed to run the race of popularity, he would not join in it. If what he had said was liable to

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*Repeal of Internal Duties.*

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any harsher interpretation, he was sorry, as it was not his meaning.

Mr. JOHNSON resumed the floor. He said he did, at the last session of Congress, present to the House a statement founded on facts, by which he proved, from official documents, beyond the possibility of doubt, that for no legitimate object could those taxes be desirable; and had then also shown how oppressively they had acted on his constituents. The first gentleman up from Pennsylvania, (Mr. HOPKINSON,) seemed to anticipate a war, in telling the House that the nation was, he apprehended, about to tread in a perilous path; and that therefore these taxes ought to be retained to guard against a deficiency of revenue in such event. These poor two and a half millions, Mr. J. suggested, would go but a little way towards this object; but if wanted, they might be again imposed. How that gentleman acted (Mr. HOPKINSON) during the late war, Mr. J. said, he did not know; but, said he, I appeal to history, to the Journal of the House, to show how I acted. I never shall shrink from the duty of imposing taxes when the necessities of my country require it. I voted a tax of more than one-fourth of its product on the most extensive manufacture of my constituents. I voted to pledge the soil on which I live, in which rest the bones of my ancestors, to pay the war debt. But I am not disposed, nor will I consent to continue a tax which is unnecessary and injurious, when the necessities of the country do not require it. Mr. J. here referred to the Treasury estimate of last year, reasoning from it, that there was no fear of a deficiency of revenue for the future. In that report the Secretary furnished the following estimate of the amount which would be received from three successive years, from customs, viz:

For 1817 - - - -	\$18,000,000
1818 - - - -	12,000,000
1819 - - - -	18,000,000

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48,000,000

By the report of the present session, instead of \$48,000,000, for the same period, \$66,000,000 would be derived from this source. If on the former estimate, without a reduction of the Army, or diminution of any expense contemplated by existing laws, the internal taxes could have been dispensed with, as was clearly established, no doubt can now exist that they ought to be repealed. Patriotism requires that the people should be relieved from them. Could it then, be necessary, Mr. J. asked, to continue these taxes, so little productive, and so very inconvenient to the people, merely to guard against imaginary evils? He hoped the bill would pass.

Mr. HOPKINSON again spoke, principally in explanation, and in reply to his colleague, (Mr. SERGEANT.) His system, he concluded by saying, was now singular, and seemed to excite surprise. But it had not been singular at the last session, when the same proposition as that now pending was before this House, and was rejected. The war was then gone—it had been some time—and if there was any force in the idea of the pledge

to repeal the taxes at the end of the war, he asked why they were not repealed at the last session, seeing so unanimous a determination to repeal them now? He should give his vote, with the most perfect respect for the motives and conduct of all from whom he differed in opinion on this occasion, against the bill.

Mr. PITKIN, of Connecticut, rose to correct an erroneous impression which appeared to exist on the mind of Mr. BALDWIN, respecting the amount of public debt paid in as part of the capital stock of the Bank of the United States; which amount, it being optional with the subscribers to pay either in stock or in gold and silver, Mr. P. showed, had, owing to the recent rise of stocks above par, been considerably less than by law it might have been. He understood, that of the debt thus subscribed, the Commissioners of the Sinking Fund had already paid every cent, not only the six, but the seven per cent. stock, all but their own seven millions, which bore but five per cent. interest, and might or might not be paid, at the pleasure of the Government. The taxes, therefore, were not wanted to redeem that stock. The same gentleman had also noticed various projects on the table of this House, which might occasion the expenditure of money. When that honorable gentleman had been longer in this House, Mr. P. said, he would know that there might be many projects offered, which would involve the expenditure of money, but which would never pass. But, was the House to legislate on the possibility of expenditures being authorized? Surely not. Some of these taxes, Mr. P. said, were not only inconvenient but oppressive; he instanced the dollar carriage tax, producing, small as it was, \$70,000, and operating with extensive and vexatious inconvenience in particular small States. He regretted extremely that the gentleman from Pennsylvania had not more time to examine the facts respecting the revenue and estimates, to enable him to decide with more satisfaction to himself; but the peculiar situation of this bill forbade a delay, which he should otherwise be glad to afford to gentlemen desiring it. If the gentleman had examined the bill and the whole subject with that acuteness of which he knew him to be capable, he would not have supposed that gentlemen, in voting for the repeal, were running a race of popularity.

Mr. SMITH, of North Carolina, rose, since other gentlemen had adverted to the oppressiveness of particular taxes, to speak of a tax which operated grievously on the district which he represented—the tax on distillation. Who were the distillers, he asked, and particularly of whiskey? Were they the farmers who lived on the seaboard, and obtained great prices for their crops of grain; or were they the farmers of the back country, producing much grain, and at a great distance from market, and under the necessity of converting it into spirit, to get it in that shape to a market? It was the latter class, he said, who paid a considerable portion of that tax, which also heavily affected those who converted into spirit the produce of their orchards. The tax on distillation

was, in fact, a tax on agriculture, almost as much as the direct tax. It was, besides, unequal, as he showed by various illustrations. He denied, also, in respect to this tax, the justness of the argument, that the consumer paid the tax; because, he said, the tax prevented the distiller from coming into competition with foreign liquors, and thus threw the burden of the tax on him. He thought the distiller had the same right to bring his complaint into this House, and to ask a respect for his interest, as the manufacturers of iron, sugar, or any other product. Relying himself on the report of the Secretary of the Treasury, and satisfied with the report of the Committee of Ways and Means; having also experienced the unequal and inconvenient operation of these taxes, he was determined to vote for the repeal of them.

The question on the passage of the bill was determined in the affirmative—yeas 161, nays 5—as follows:

YEAS—Messrs. Abbott, Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Bayley, Beecher, Bellinger, Bennett, Bloomfield, Blount, Boden, Boss, Burwell, Butler, Campbell, Clagett, Claiborne, Cobb, Colston, Comstock, Cook, Crafts, Crawford, Cruger, Culbreth, Cushman, Darlington, Desha, Drake, Earle, Edwards, Ellicott, Floyd, Folger, Forney, Forsyth, Gage, Garnett, Goodwyn, Hale, Hall of North Carolina, Harrison, Hasbrouck, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Hogg, Holmes of Massachusetts, Holmes of Connecticut, Hubbard, Hunter, Huntingdon, Ingham, Irving of New York, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Lewis, Linn, Little, Livermore, Lowndes, McLane, W. Maclay, W. P. Maclay, McCoy, Marchand, Marr, Mason of Massachusetts, Mercer, Merrill, Miller, Moore, Morton, Moseley, Mumford, Murray, H. Nelson, T. M. Nelson, Nesbitt, New, Newton, Orr, Owen, Palmer, Parris, Parrott, Patterson, Pawling, Peter, Pindall, Pitkin, Pleasants, Quarles, Reed, Rhea, Rich, Richards, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Ruggles, Sampson, Savage, Sawyer, Scudder, Sergeant, Settle, Seybert, Shaw, Sherwood, Slocumb, S. Smith, Bal. Smith, Alex. Smyth, J. S. Smith, Southard, Spangler, Speed, Spencer, Strong, Strother, Stuart, Tallmadge, Tarr, Taylor, Terrill, Terry, Tompkins, Townsend, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Westerlo, Whiteside, Whitman, Williams of Connecticut, Williams of New York, Williams of North Carolina, Wilkin, and Wilson of Pennsylvania—161.

NAYS—Messrs. Baldwin, Hopkinson, Middleton, Jer. Nelson, and Storrs—5.

So the bill was passed.

FRIDAY, December 12.

The SPEAKER laid before the House a report of the Secretary of War of the number of warrants for military bounty lands, issued by virtue of acts passed for that purpose, to soldiers who served during the late war, with the quantity of

land included in such warrants; which was read, and ordered to lie on the table.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, containing in obedience to the 16th section of the act incorporating the Bank of the United States, his reasons for not transferring the deposits of the public moneys in certain places to the said bank or its branches; which letter was ordered to lie on the table.

The SPEAKER also laid before the House a report from the Secretary of the Treasury on the petition of William Taylor and Ezekiel Walker; which was referred to the Committee of Ways and Means.

The Committee of the Whole, to which is committed the bill authorizing the commutation of soldiers' bounty lands, were discharged from the consideration of the same; and it was committed to the Committee of the Whole, to which is committed sundry resolutions moved by Mr. Mr. JOHNSON, of Kentucky, on the 9th instant.

Mr. HOPKINSON, of Pennsylvania, from the Committee on the Judiciary, reported a bill to establish an uniform system of bankruptcy throughout the United States; which was twice read, and committed.

Mr. TAYLOR, of New York, at the instance of the Committee of Elections, introduced the following resolution, under the impression that it proposed a course the most respectful to the House, if not the only manner in which the committee could execute the duty required of them:

*Resolved*, That the President of the United States be requested to communicate to this House, whether any, and, if any, which of the Representatives named in the list hereto annexed, have held any office under the United States since the 4th day of March, in the year 1817; designating the office or offices they have respectively held, the time of appointment and acceptance of the said offices; whether the same are now held, and, if not, when the same were severally resigned.

[Annexed to the resolution was a list of the names of the members of the fifteenth Congress.]

The resolution was agreed to, and a committee appointed to present the same to the President.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made an unfavorable report on the petition of Alexander Worster, of Massachusetts, lately an officer of the Army, who prays indemnification for damages recovered from him by the friends of a minor whom he had enlisted and detained as a soldier, under the belief that said minor was of full age.

On suggestion of Mr. LITTLE, of Maryland, after some conversation, in which the principle of the report was controverted, the report was referred to a Committee of the Whole.

Mr. PARRIS, of Massachusetts, from a select committee to whom was referred the petition of Noah Miller, Inspector of the Port of Penobscot, who prays for a pension in consequence of disability incurred by a wound received whilst in the execution of his duty, reported a bill for his relief; which was twice read, and committed.

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Mr. SAVAGE, of New York, made a report from the Committee of Revisal and Unfinished Business.

Mr. BLOOMFIELD, of New Jersey, from the committee to whom was referred so much of the President's Message as relates to the surviving Revolutionary patriots, reported, in part, a bill concerning certain surviving officers and soldiers of the late Revolutionary army.

[This bill provides that every commissioned and non-commissioned officer or soldier, who had served in the Army during the war which terminated in the Treaty of Peace with Great Britain in 1783, and reduced to indigence, or by age, sickness, or any other cause, may be unable to procure subsistence by manual labor, shall receive half pay during life, equal to the half of the monthly pay allowed to his grade of service during the Revolutionary war—provided, that no pension thus allowed to a commissioned officer shall exceed the half pay of a lieutenant-colonel.]

The bill was twice read and committed.

The motion submitted by Mr. BASSETT, of Virginia, to amend the rules of the House, was taken up and agreed to. [The question of *consideration*, which has heretofore been a matter of much contention in the House, in the days of party conflict, is thus expunged from the rules of the House.]

On motion of Mr. EDWARDS, of North Carolina, the Committee on the Public Lands were instructed to inquire what further provisions are necessary in the existing laws, for the more effectual prevention of frauds by the purchasers of the public lands.

On motion of Mr. SCOTT, the Committee on the Public Lands were instructed to inquire into the expediency of making further provision by law for the final adjustment of land claims in the Missouri Territory.

On motion of Mr. MOORE, of Pennsylvania, the Committee on the Post Office were instructed to inquire into the expediency of authorizing an extra compensation to the Postmaster at Beavertown, in Pennsylvania.

On motion of Mr. McLANE, of Delaware, the committee on so much of the Message of the President as relates to roads and canals, were instructed to inquire into the expediency of authorizing the Secretary of the Treasury of the United States to subscribe for stock in the company incorporated under the name and style of the Chesapeake and Delaware Canal Company, or any other company now, or hereafter to be, incorporated for similar purposes, to be paid by the appropriation of the public lands, or by any surplus money in the Treasury of the United States.

A report was received from the Department of State on the petitions of Antoine Bienvenue, Peter La Coste, and Jacques Villere; which was referred to the Committee of Claims.

The engrossed bill, supplementary to the act for the establishment of the Mint (for continuing the same at Philadelphia) was read a third time, and passed.

The House then resolved itself into a Com-

mittee of the Whole, on the bill for the relief of John Bate.

This bill, which proposes to indemnify Mr. Bate for certain losses sustained by the overflow of a Saline rented by him from the Government, occasioned a debate of some length, involving the principle, as well as the facts, which lasted till the usual hour of adjournment, when the bill was postponed for further consideration.

The House adjourned to Monday.

#### MONDAY, December 15.

Two other members, to wit: from Pennsylvania, JOHN ROSS, and from Mississippi, GEORGE POINDEXTER, appeared, produced their credentials, were qualified, and took their seats.

Mr. SILSBEE presented a petition of sundry inhabitants of Essex county, in the State of Massachusetts, praying that the act imposing duties upon imported salt may be repealed; or that the act granting bounty to vessels employed in the fisheries may be so altered or modified as that the bounty on small vessels may be equal, per ton, to the bounty granted to large vessels.—Referred to the Committee of Ways and Means.

Mr. ROSS presented a petition of the cotton and woollen manufacturers residing in Providence and its vicinity, in the State of Rhode Island, praying that the duties at present imposed on imported cotton and woollen goods may be rendered permanent, and that provisions may be made more effectually to prevent evasions of the payment of said duties; and that such further measures may be adopted for the security and promotion of American manufactures as Congress may deem proper and expedient.

Mr. BLOOMFIELD presented a petition of sundry inhabitants of the counties of Burlington and Gloucester, in the State of New Jersey, praying that additional duties may be imposed on the various species of iron imported into the United States.

Mr. WENDOVER presented a petition of the merchants and traders in the city of New York, praying that a duty of not less than ten per centum may be imposed on sales at auction of foreign merchandise; and that additional provisions may be enacted to secure the payment thereof, as well as of the import duties, to prevent frauds, and to secure the petitioners and other honest and fair dealers a due participation of the benefits arising out of the foreign commerce of the United States.

*Ordered*, That the said petitions be referred to the Committee of Commerce and Manufactures.

Mr. ROBERTSON, of Louisiana, presented a letter addressed to him as chairman of the Committee on the Public Lands, respecting islands in the various rivers flowing through the public lands; which letter was referred to the Committee on the Public Lands.

On motion of Mr. PINDALL, a committee was appointed to inquire into the expediency of providing more effectually by law for reclaiming servants and slaves escaping from one State into

another; and that the said committee have leave to report by bill or otherwise; and Mr. PINDALL, Mr. BEECHER, and Mr. ANDERSON, of Kentucky, were appointed the committee.

On motion of Mr. ALLEN, of Vermont, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of authorizing the payment to the present holder of the amount of a loan-office certificate, No. 9948, signed by Samuel Hillegas, and countersigned by J. Lawrence, and bearing date January 10, 1780; which certificate has never been paid.

On motion of Mr. BARBER, of Ohio, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of establishing a post road from Marietta to Lancaster, by the route through Oliver's settlement, on the head waters of Wolf Creek, and a road from Warren, by Parkman and Burton, to Painesville.

The unfinished business of last sitting (the bill for the relief of John Bate) being called over—

Mr. JOHNSON, of Kentucky, said the bill involved not only equitable and judicial inquiries, but also a variety of facts to be established on testimony exhibited to the House. And as such an inquiry interfered with business peculiarly legislative, he thought it had better be referred for an investigation to a different tribunal; and, having confidence in the abilities and just disposition of the head of the department most proper for the investigation, he moved that the case be referred to the Secretary of the Treasury, to report thereon.—Agreed to.

Mr. LOWNDES, of South Carolina, made a report on the petition of John McConnel and Luke Hoff, praying a remission of duties on licenses for distilling, the one on account of sickness of the party obtaining the license, the other on account of the dryness of the season, which rendered the business unprofitable. The report, which was adverse to the prayer of the petitioners, was concurred in, *nem con*.

Mr. RHEA, of Tennessee, from the Committee on Pensions and Revolutionary Claims, made a report on the petition of Daniel Evans, unfavorable thereto; which was read and concurred in, but afterwards reconsidered, and ordered to lie on the table.

Mr. RHEA, from the same committee, made a report unfavorable to the petition of Richard S. Morris, who prays for reimbursement of a lost certificate for Revolutionary services or supplies. This report was opposed by Mr. BASSETT of Virginia, and Mr. LIVERMORE of New Hampshire, to whom Mr. RHEA replied.

On motion of Mr. FORSYTH, the report was ordered to lie on the table.

Mr. WILLIAMS, of North Carolina, from the committee to whom was referred the report of the Secretary of State on the petition of Winslow and Henry Lewis, who pray indemnification for certain losses sustained by the application, to other purposes than their use, of certain moneys deposited in the Chancery of the United States

Consulate at Tunis, reported a bill for the relief of Winslow and Henry Lewis; which bill was twice read, and committed.

On motion of Mr. COMSTOCK, of New York, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the claim of Sylvanus Townsend for reimbursement of two old loan office certificates.

#### AMELIA ISLAND AND GALVESTON.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the House of Representatives:*

In compliance with the resolution of the House of Representatives of the 8th of this month, I transmit, for the information of the House, a report from the Secretary of State, with the documents referred to in it, containing all the information of the Executive, which it is proper to disclose, relative to certain persons who lately took possession of Amelia Island and Galveston.

JAMES MONROE.

WASHINGTON, December 15, 1817.

DEPARTMENT OF STATE,

December 13, 1817.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 8th instant, requesting the President to lay before the House any information he may possess and think proper to communicate, relative to the proceedings of certain persons who took possession of Amelia Island, at the mouth of St. Mary's river, in the Summer of the present year, and made an establishment there; and, relative to a similar establishment previously made at Galveston, has the honor to submit to the President the accompanying papers containing the information received at the respective Departments of State, the Treasury, and the Navy, upon the subjects embraced in the resolution.

The above documents and accompanying papers were ordered to be printed.

#### EXPATRIATION.

Mr. ROBERTSON, of Louisiana, offered the following resolution to the House:

*Resolved*, That a committee be appointed to inquire into the expediency of providing, by law, for the exercise of the right of expatriation; and that they have leave to report by bill or otherwise.

Mr. ROBERTSON said that, for a very considerable length of time, he had wished this question to be decided by that tribunal to whom the decision of it belonged. He had, some years ago, offered a resolution similar to this, which was then not adopted; whether on account of the war in which we were then engaged, or for what other considerations, he had never been able to decide. The question which had arisen during the late war made a decision of it necessary. It would be well recollected, that among the soldiers of the United States were many individuals, natives of Great Britain, who were taken prisoners of war, and, according to the doctrine of the British Government, an odious doctrine, reprobated, he believed, by every other Government, were treated as traitors fighting against their



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*Pensions to Sufferers in War.*

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Government; and that, if this construction had been consummated, our Government had menaced severe retaliation. But, with what consistency could the United States take the ground of retaliation, when they themselves had never recognised, in regard to our own citizens, what we demanded of Great Britain in regard to hers? So far as proceedings have been had on this point, Mr. R. said he was led to believe this right had been denied to our citizens. He would not dwell on the particulars of the decision on this subject by Judge Ellsworth some years ago, but merely state that Isaac Williams, a citizen of the United States, became a citizen of the French Republic, and was thereafter fined and imprisoned, by the decision of our courts, for making war on Great Britain, on the ground that he could not divest himself of the allegiance he owed to the United States. It was certainly proper, he said, that there should be some decision of the Legislature on a question of this nature and magnitude, which, at present, depended on the opinions of the Judiciary; and, as far as acts of Congress can regulate the judicial opinions, that such directions should be given on this head as he thought were obviously just and necessary. He had thought proper to make these remarks, because, although he believed the right to be clear, and that the Government would maintain it, as they ought to do, if they possessed the respect which is professed for the principles of liberty and for civil rights—a decision of the Legislature on the subject was more important at this moment, from considerations growing out of the present relations between the United States and foreign nations. By the existing treaty with Spain, a citizen of the United States, holding a commission under any Government at war with Spain, while we are at peace with her, is considered as a pirate. This extraordinary provision of the treaty must have escaped the attention of that power in our Government which makes treaties, or it would have been rejected, as well for its cruelty as because it is an act of legislation to define and punish piracies, and not a power confided to the treaty-making authority. To say nothing more of that, however, Mr. R. observed, that he deemed it necessary to protect the citizens of the United States from punishment, due only to piracy, when found with commissions in their hands from any Government at war with Spain. He wished to see our citizens at perfect liberty to become citizens of what nation they chose, on such terms as that nation should prescribe. It would appear, from what he had said, Mr. R. remarked, that there was not that neutrality in our conduct towards the two parties, in the war between Spain and her colonies, which we all profess. In this respect, the parties were certainly not on the same footing; since a citizen of the United States in the employ of Spain against the colonies is not considered as a pirate, but engaged in the service of the colonies against Spain, he is. He did not know that this fact would have induced him to have brought the question before the House, but for

the deep impression he felt of the justice and propriety of adopting the principle, abstracted from the existing state of things. But it was the more necessary to reduce the principle to legislation, because of the situation in which the want of it has placed us in regard to foreign nations.

The motion of Mr. ROBERTSON was adopted without opposition, and without a division; and Messrs. ROBERTSON of Louisiana, MASON of Massachusetts, POINDEXTER, ROSS, and FLOYD, were appointed the committee.

## PENSIONS TO SUFFERERS IN WAR.

Mr. HARRISON, of Ohio, offered the following resolution:

*Resolved*, That the Committee on Military Affairs be, and they are hereby, instructed to inquire into the expediency of continuing the pensions which now are or have been heretofore allowed to the widows and orphans of the officers and soldiers who were killed or who died in the service of the late war, for a term of five years beyond the periods at which they shall respectively cease under the existing laws.

Mr. H. said, that, as the resolution only contemplated an inquiry, he would detain the House but a few minutes only, with the motives which induced him at this time to bring it forward. Some of the pensions which had been granted, said he, have already expired, and others will expire, probably, before the session of Congress closes. Amongst the latter is that which was granted to the widow and orphan of the late Brigadier General Pike. In descending the Ohio river, said Mr. H., the eye of the inquisitive stranger is attracted by the humble dwelling which shelters the widow and orphan of that distinguished hero. Should his curiosity carry him further, and he should be induced to visit the abode of this interesting family, he would find, however humble the exterior, that neatness, frugal hospitality, and comfort, were to be found within its walls—that the lady had expended a proper portion of her pension in the pious purpose of educating her daughter. But, said Mr. H., if the visit should be repeated at the end of a year, and the law which the resolution contemplated should not pass, it would be found that the comforts of which he had spoken had fled, or that the means of procuring them were obtained by the personal exertions of the lady herself. From my knowledge of her situation, said Mr. H., I can state, with confidence, that her dependence for a comfortable support rests upon the generosity—no, sir, not on the generosity, but on the justice of this nation; for, can there be, under Heaven, a juster claim than that which is presented by a widow, under such circumstances? In fighting your battles she has lost a husband—he has bled that his country might be great, might be free, might be happy. But our advantage has been to her an insuperable misfortune. It has thrown her

"On the wide world, without that only tie

"For which she wished to live, or feared to die."

It is our duty to supply, as far as we can supply, the loss she has sustained. There are other cases, sir, which form the strongest claims

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upon the justice and the honor of the nation. Let me not be told, said Mr. H., that the Government has performed its contract by giving the five years' pension which was provided at the commencement of the war. Sir, the contract was all on one side, and it would have been immaterial what had been its provisions. 'The noble spirits of Allen, of Hart, and of Pike, would have met your enemy with as much zeal and devotedness as if the provision for their families had been such as they would have dictated; no personal consideration would have withheld them from the field of glory. But, said Mr. H., there are moments when the claims of nature will have their full effect. I have seen, said he, the wounded and expiring warrior in that awful moment, when the martial ardor which had filled his bosom had been suspended by the pain which he felt—when the sacrifice being made, naught of public duty remained to be performed—then it is, sir, that the thoughts of his family would fill him with the greatest solicitude. A beloved wife and children left friendless and unprotected—the latter without the means of education, and both without support. In such a situation, said Mr. H., I have heard amidst the fervent aspirations to Heaven for their happiness, a consoling hope expressed that his country would not forsake them. Shall we, sir, not realize that hope? The country, said Mr. H., may be engaged in another war; if it should be the case, let us commence it with the benedictions of the widow and the orphan upon our heads. Let not their prayers ascend to Heaven charged with accusations against your justice and humanity. But, said Mr. H., I am anticipating a thing that cannot happen; the resolution will pass, as will a law that will be reported in obedience to it.

The motion of Mr. HARRISON was not opposed, and was adopted.

#### INTERNAL IMPROVEMENTS.

Mr. TUCKER, of Virginia, from the committee appointed on so much of the President's Message as relates to roads, canals, and seminaries of learning, made a report in part, which was read, and committed to a Committee of the Whole House on Friday next. The report is as follows:

The committee, to whom was referred so much of the President's Message as relates to roads, canals, and seminaries of learning, respectfully report, in part, that they have taken into consideration the subject referred to them, and bestowed on it that attention to which, by its importance, it is so eminently entitled. Involving, as it is supposed, a great Constitutional question on the one hand, and intimately connected, on the other, with the improvement, the prosperity, the union, and the happiness of the United States, it presents the fairest claims to candid and diligent investigation. Nor is it without additional interest from the division of opinion to which it has heretofore given rise between the Executive and Legislative branches of the Government; a difference which, in the indulgence of the rights of free opinion, will be still found to exist between the sentiments promulgated in the Message of the President, and those which will be advanced by your committee in this report; nor do they conceive

that the expression in the Message of the President, of an opinion unfavorable to the Constitutional powers of the General Government, should be permitted to have any influence on the disposition of Congress to legislate on this interesting subject. For, if the Constitutional majority of the two Houses should differ with the Executive Department, the opinion of the latter, however respectable, must yield to such an expression of their will. On the other hand, if from deference to an opinion promulgated in an Executive communication, Congress should refrain from entering upon the consideration of a question involving Constitutional doctrine, it might happen that the opinion of the President would prevent the enactment of a law, even though there should be the Constitutional majority of two-thirds of both Houses in its favor. Thus, by the introduction of such a practice, the Presidential veto would acquire a force unknown to the Constitution, and the legislative body would be shorn of its powers from a want of confidence in its strength, or from indisposition to exert it. Whilst your committee are perfectly aware that nothing like this is contemplated by the Executive branch of the Government, they presume the House of Representatives will scrupulously avoid a course which may be construed into a dereliction of their privileges. They deem it, therefore, not improper to offer some considerations upon the question of the Constitutional powers of the General Government to pass laws for the improvement and construction of roads and canals, with the consent of the States.

As it is obvious, however, that these several subjects of legislation do not rest upon the same foundations, and that one of these may be within the sphere of the Constitutional powers of Congress, whilst the others may belong exclusively to the States, it is proposed to treat them separately; and the subject of the improvement and construction of public roads, which appears to your committee most clearly to be deducible to the powers vested in the General Government, will be first taken into consideration.

An accurate attention to the real points of difference on this subject, will greatly contribute to free the controversy from unimportant and irrelevant considerations. To attain this, we have only to compare what is manifestly admitted on the one hand, with what is claimed and contended for on the other.

The laws of antecedent Congresses, approved by successive Executive Magistrates themselves, will be resorted to, as affording evidence of what may be regarded as conceded to be within the powers of the General Government. The commendable jealousy which they have manifested of all encroachments of State power, and their scrupulous adherence to the most rigid principles of construction, in the interpretation of the Constitution, affords a *suo* guarantee that more has not been admitted than may fairly be assumed within the provisions of that instrument. Taking, then, the acts of both the Executive and Legislative branches of the Government for our guide, we shall find it clearly admitted that there are some cases, at least, in which the General Government possesses the Constitutional privilege of constructing and improving roads through the several States.

Thus, by the act of the 29th of March, 1806, confirmed, amended, and enlarged, by subsequent acts, a road was directed to be laid out and constructed from Cumberland, in the State of Maryland, to the State of Ohio, upon obtaining the consent of the States through which it should pass. The fund provided for this no-

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ble undertaking, was to consist of the proceeds of the sales of certain lands, the property of the United States, in the State of Ohio; so that this act furnishes the double admission, that "roads may be laid out by Congress through the several States, with their consent;" and that the expenses of constructing such roads may Constitutionally be defrayed out of the funds of the United States. The act was approved by the President, in office, in 1806, and other acts confirming, amending, and enlarging it, were passed by subsequent Legislatures, in the years 1810, 1811, and 1815, and approved by the President, in office, at those periods; nay, more, the three last acts contained appropriations to the amount of \$210,000, payable out of any moneys in the Treasury, but reimbursable out of the Ohio fund; a fund which might or might not prove adequate, and which, in point of fact, is believed hitherto to have been insufficient.

Similar to this act in some of its provisions, and analogous in principle, are the acts of April 21st, 1806, and of the 3d of March, 1817, authorizing roads to be opened from Nashville and Reynoldsburg, in the State of Tennessee, to different points in the Mississippi Territory. But these acts go still further than the former, in omitting to require the previous consent of the State of Tennessee, through whose territories a part of the roads was to pass, and in directing the expenses of making them to be defrayed out of the public Treasury of the United States, without providing for its reimbursement in any manner whatsoever.

But lest the influence to be derived from these admissions should be deemed to be weakened by the consideration, that the collision of opinion on the Constitutional question has arisen since the passage of those laws, your committee will beg leave to refer to the date of the last act abovementioned, and to certain transactions of a date subsequent to the important and well remembered difference of opinion between the Executive and the Legislature at the last session of Congress. Since that period, they have satisfactory information that a road has been directed by the Executive of the United States to be improved, at the expense of the General Government, and doubtless for military purposes. This road is laid out from Plattsburg, or its vicinity, in the State of New York, to Sackett's Harbor, in the same State.

It is presumed that it is to be constructed at the expense of the General Government, and it is understood that the previous assent of the State has not been procured. From this act, therefore, of the Executive branch of the Government, emanating from that source at a late date, it would seem fair to infer, that the Constitution is admitted to have conferred upon the General Government a power, in some cases, to make roads, and to defray the expense of their construction out of the funds of the United States. And as the power is not denied in all cases, your committee will attempt to show that Congress has the power—

1. To lay out, improve, and construct, post roads through the several States, with the assent of the respective States. And,

2. To open, construct, and improve, military roads through the several States, with the assent of the respective States.

3. To cut canals through the several States, with their assent, for promoting and giving security to internal commerce, and for the more safe and economical transportation of military stores &c., in time of war; leaving, in all these cases, the jurisdictional right over the soil in the respective States.

In examining the soundness of these positions, your committee will not find it necessary to resort to what is called a liberal construction of the Constitution. They might, indeed, contend that as the powers here attributed to the United States are not in derogation of State rights, (since they can only be exercised by their assent) there is less reason for adhering to extreme rigor of construction. Where the authority claimed by the General Government is oppressive in its character, or dangerous in its tendencies; where it is asserted without deference to State assent, and in derogation of State power; where it is calculated to aggrandize the Union, and to depress its members, there may be some reason for holding the representatives of the nation to the "letter of their authority."

But where the power sought to be exercised is beneficial in its effects, and only felt in the blessing it confers; where it is not proposed to act, except with the assent of the party which is to be affected; where the measure is more calculated to increase the opulence and the power of the State, than to aggrandize the Union at its expense, it might fairly be contended that a less rigorous construction of the Constitution would be justifiable. It is neither unprecedented nor improper to construe the same instrument, liberally, where the interests of the contracting parties will be thereby promoted, and to adhere to a greater strictness where injury may arise to either by an interpretation too latitudinous. That the powers in question are neither dangerous in their tendencies, nor calculated to prove injurious to the States, would seem fairly inferable from the recommendation to amend the Constitution, and from the importance so justly attached to these objects on all hands.

But your committee, nevertheless, do not conceive it necessary to call to their aid the liberal principles of construction which the occasion might justify. They disavow any use of the general phrase in the Constitution to provide for the common defence and general welfare, as applicable to the enumeration of powers, or as extending the power of Congress beyond the specified powers; and they admit that to support their positions, it must appear that the powers contended for are expressly granted, or that they are both "necessary and proper" for carrying into execution some other express power.

That Congress, with the assent of the States respectively, may construct and improve their post roads, under the power "to establish post offices and post roads," seems to be manifest, both from the nature of things and from analogous constructions of the Constitution. It has been contended, indeed, that the word *establish*, in this clause of the instrument, comprehends nothing more than a mere designation of post roads. But if this be true, the important powers conferred on the General Government, in relation to the Post Office, might be rendered in a great measure inefficient and impracticable. In some States a power is vested in the inferior tribunals or county courts, to discontinue roads at their discretion; a post road designated by Congress might thus be discontinued, to the great embarrassment of the Post Office establishment. If the power to establish confers only the authority to designate, Congress can have no right either to keep a ferry over a deep and rapid river, for the transportation of the mails, or to compel the owners of a ferry to perform that service; and yet our laws contain an act, acquiesced in for more than twenty years, imposing penalties on ferrymen for detaining the mail and on other persons for retarding or obstructing its

passage. It would be difficult to discover how this power of imposing penalties can be supported, either as an original or accessory power except upon principles of more liberal construction than those now advanced. There are, therefore, not a few who believe that, under the authority to "establish" post roads, Congress have express power to lay out, construct, and improve roads for the transportation of the mails.

But, however this may be, the authority which is conferred by the Constitution to make all laws which shall be "necessary and proper" for carrying into execution the enumerated powers, is believed to vest in the General Government all the means, which are essential to the complete enjoyment of the privilege of "establishing post offices and post roads." Even without this clause of the Constitution the same principle would have applied to its construction; since, according to common understanding, the grant of a power implies a grant of whatever is necessary to its enjoyment.

Taking these principles for our guide, it may be asked, if, under the narrow rules of construction contended for, the right of transporting the mails would not be held entirely at the will of the States respectively; on the other hand, if the United States have the privilege of establishing post roads, and are under the corresponding obligation of transporting the mails, is it not essential to the performance of this duty and to the enjoyment of this power, that they should have the right (with the assent of the respective States) to throw bridges over deep and rapid streams, to remove embarrassing and dangerous obstructions in the roads which they have the privilege of using, to level mountains which impede the velocity of transportation, and to render passable the morasses which intersect the roads through various parts of the Union? Can it be supposed, that the Convention, in conferring the power and imposing the duty of transporting the mails, (in its nature a matter of national concern,) intended to vest in Congress the mere authority to designate the roads over which it should be carried? Can it be denied, that the right to render a road passable is "necessary" to the enjoyment of the privilege of transporting the mails; or can it be denied that such improvement, with the assent of the States, is proper? And, if "necessary and proper," is it not justified as an incidental power?

It is indeed from the operation of these words, "necessary and proper," in the clause of the Constitution, which grants accessory powers, that the "assent of the respective States" is conceived to be a pre-requisite to the improvement even of post roads. For, however "necessary" such improvement might be, it might be questioned how far an interference with the State jurisdiction over its soil, against its will, might be "proper." Nor is this instance of an imperfect right in the General Government without an analogy in the Constitution; the power of exercising jurisdiction over forts, magazines, arsenals, and dock yards, depending upon previous purchase by the United States, with the consent of the State.

Admitting, then, that the Constitution confers only a right of way, and that the rights of soil and jurisdiction remain exclusively with the States respectively, yet there seems no sound objection to the improvement of roads with their assent. For if, by the 10th amendment, this right is reserved to the States, it is within the power of the State to grant it, unless the United States are incapable of receiving such a privilege. But by various acts of the Government, whose

validity has never been questioned, it appears to possess not merely the power of receiving so unimportant a privilege as this, but of acquiring territory *ad libitum*. The acquisition of Louisiana, one of the happiest events of our political history, evinces the power of this Government to acquire territory by treaty from foreign nations. The cession of the Northwest Territory by Virginia shows that, under the strict principles of the old Confederation, which had so few features of nationality, the United States were deemed to have the power of acquiring lands even from the States of the Confederacy. The Georgia cession, completed about the year 1802, is finally decisive of the practical and undisputed exercise of a power in the General Government to receive a cession of territory from any member in the Confederacy, under the present Constitution. But if the General Government have the power to aggrandize itself by the acquisition of Territories, can the inferior privilege be denied them of receiving from a State the right of making or repairing the roads over which they are compelled to transport the mails through the Union?

Moreover, it seems to be admitted that the United States have, since the Georgia cession, a Constitutional right to make and repair roads in the ceded territory. If, then, by the transfer of the territory, Georgia could give, and the United States receive, the right to make roads within it, it is difficult to imagine a substantial objection to the validity of a grant to make a road, without a transfer of the territory.

2. Your committee conceive that the General Government has the power of making and opening military roads with the assent of the respective States, with a view to the common defence of the nation.

The power of opening a road during actual hostilities, for the purpose of transporting military stores, and marching troops to points that are menaced, has never yet been called in question. In truth, without such a power, the United States must fall a prey to foreign enemies; so that it seems fair to assume, that, whenever a military road becomes necessary for the national safety, it is in the power of the General Government to construct it. Of this necessity, that Government can be the only judge; and if the power of judging of this necessity be in them, the Constitutional power to act must of course be conceded. In the exercise of this discretion, a very general sentiment at present prevails in favor of preparations during peace for a state of war. And if the power of judging when it is necessary be admitted, the Constitutional right to do it at any time must be allowed.

It is not proposed to enter upon the delicate inquiry whether this right can be exercised by the General Government without the assent of the respective States through whose territories a road is constructed in time of peace, with a view to military operations in any future wars. Leaving this question for discussion whenever the occasion may call it forth, your committee are content, in this report, to assert the right to exercise this "necessary" power with the assent of the States.

Having taken this cursory view of the principles of the Constitution, in relation to the construction of roads by the United States, it may not be unimportant to examine what has been the practice under its provisions. The laws of the Union and the acts of the Executive branch of the Government, though they cannot be relied on to support acknowledged error, may safely be referred to in aid of our inquiries as to the proper construction of the Constitution.

Among the most conspicuous of the analogies af-

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fording by the acts of Congress, is the establishment of the Cumberland road already mentioned. This road has been constructed under the authority of the United States, with their funds, and through several of the States, with their assent. It has received the sanction of several distinct representative bodies, and of two Presidents of the United States. In short, if precedent alone were wanting, this act would furnish it.

Passing over the road from Nashville to Natchez, and the road from Reynoldsburg to a part of the late Territory of Mississippi, directed by an act of the last session of Congress, both of which afford precedents no less strong, we come to the military road lately directed by the Executive authority to be constructed, from Plattsburg or its vicinity, to Sackett's Harbor. This road is not to be constructed with any express assent of the State through which it passes, nor by the authority of Congress, but the President has deemed it necessary as a military road, and has ordered it to be made accordingly; a measure, the advantages of which are understood to be so palpable, as to have given great satisfaction in the country where the road is made. Hence, however, the question results, whether the exercise of this power by the President is not an express admission of the right of the General Government to open military roads even in time of profound peace, when they are believed to be necessary; and, if the power of judging of this necessity is possessed by the Executive, it cannot, it is presumed, be denied to the yet more important organ of the nation's will—the Legislature of the Union.

3. As to canals. It will not be necessary to recapitulate the arguments already used on the subject of roads, some of which will be found strongly applicable to canals. It may suffice to add, that the power to make canals and roads, for the promotion and safety of internal commerce between the several States, may justly be considered as not less incidental to the regulation of internal commerce than many of the powers exercised under the authority to regulate foreign commerce are accessory to that power. The embarrassments of the nation during war, from the want of good roads and canals, both in relation to trade and the transportation of cannon and military stores, have been too recently and sensibly felt to be forgotten. Vested with the power of making war, the Constitution could never have intended the General Government should make it under such disadvantages. If there be any part of that instrument which demands a liberal construction, it is that which confers on the Federal Government the power of making war, and the duty of protecting the Union from foreign hostility. With a Navy yet insufficient to insure the safe conveyance, coastwise, of troops, of implements of war, and military stores, and destined to contend with an enemy whose command of the sea enables them to assail, in rapid succession, the most distant positions, we have been compelled, from the want of an internal water communication, to encounter the most wasteful extravagance in the transportation of the means of defence. From the same cause, the internal trade between the States has been, during war, trammelled and embarrassed, and even cut off; and the productions of one portion of the community have rotted on their hands, while distant parts of the United States were suffering for the want of them.

It is true that the wants of the Union cannot confer power under the Constitution; but they may justly be touched upon as affording aid in its construction. They must have been clearly foreseen, and must have

been supposed to be provided for. If the power to carry on war implies "the necessary and proper" means of conducting it to a safe and proper issue, and if, without the use of these means, the burdens, and the privations, and the miseries of war, are to be indefinitely increased, and its issue (always doubtful) rendered yet more precarious and unprosperous, are we not justified in presuming these means to have been contemplated as being vested in the General Government? Are we not justified in asserting this "necessary" power—the power of constructing roads and canals—at least with the assent of the States?

If your committee have not erred in attributing to Congress a Constitutional power to make roads and canals, either as an original or accessory power, it would seem that no doubt could remain of the right of applying our revenues to those purposes. If, indeed, the power was denied to the General Government of constructing roads and canals themselves, a question might still arise, whether it had not power to appropriate part of the revenue "to aid in the construction of roads and canals by the States."

There is perhaps no part of the Constitution more unlimited than that which relates to the application of the revenues which are to be raised under its authority. The power is given "to lay and collect taxes to pay the debts and provide for the common defence and general welfare of the United States;" and though it be readily admitted, that, as this clause is only intended to designate the objects for which revenue is to be raised, it cannot be construed to extend the specified powers of Congress, yet it would be difficult to reconcile either the generality of the expression or the course of administration under it, with the idea that Congress has not a discretionary power over its expenditures, limited by their application "to the common defence and general welfare."

A few of the very great variety of instances, in which the revenues of the United States have been applied to objects not falling within the specified powers of Congress, or those which may be regarded as incidental to them, will best illustrate this remark.

Thus, it can scarcely be conceived, that, if construed with rigor, the Constitution has conferred the power to purchase a Library, either specifically or as a "necessary" incident to legislation. Still less, perhaps, can the pious services of a Chaplain, or the purchase of expensive paintings for ornamenting the Hall of session, or various other expenditures of similar character, be considered as "necessary" incidents to the power of making laws. Yet, to these and to similar objects have the funds of the United States been freely applied, at every successive session of Congress, without a question as to the constitutionality of the application.

It would be yet more difficult to reduce, under the specific or accessory powers of Congress, the liberal donation to the wretched sufferers of Venezuela, or the employment of our revenues in the useful and interesting enterprise to the Pacific.

The bounties allowed for the encouragement of the fisheries form another expenditure that does not fall under any of the powers granted by the Constitution; nor could it fairly be considered as inferrible from the powers granted, upon the strict principles sometimes contended for. The same objections would apply to actual bounties paid to manufacturers for their encouragement, and to the indirect encouragement given to them, and which operates as a bounty to one class of the community and as a tax upon the rest. These and

a variety of other appropriations can only be justified upon the principle that the general clause in question has vested in Congress a discretionary power to use for the "general welfare" the funds which they are authorized to raise.

Nor is there any danger that such a power will be abused, while the vigor of representative responsibility remains unimpaired. It is on this principle that the framers of the Constitution mainly relied for the protection of the public purse. It was a safe reliance. It was manifest that there was no other subject on which representative responsibility would be so great. On the other hand, while this principle was calculated to prevent abuses in the appropriations of public money, it was equally necessary to give an extensive discretion to the legislative body in the disposition of the revenues; since no human foresight could discern, nor human industry enumerate, the infinite variety of purposes to which the public money might advantageously and legitimately be applied. The attempt would have been to *legislate*, not to frame a *Constitution*; to force and provide specifically for the wants of future generations, not to frame a rule of conduct for the legislative body. Hence proceeds the use of this general phrase in relation to the purposes to which the revenues may be applied, while the framers of the instrument, in the clause which concludes the enumeration of powers, scrupulously avoid the use of so comprehensive an expression, and confine themselves to the grant of such incidental power as might be both "necessary and proper" to the exercise of the specified powers.

Nor is it conceived that this construction of the Constitution is calculated to give that unlimited extent to the powers of the Federal Government which by some seems to have been apprehended. There is a distinction between the power to appropriate money for a purpose, and the power to do the act for which it is appropriated; and if so, the power to appropriate money "for the general welfare" does not by fair construction extend the specified or incidental powers of Government. Thus, in the case under consideration, if the power to make a road or dig a canal is not given, the power of appropriating money cannot confer it, however generally it may be expressed. If there were no other limitation, the rights of the respective States over their soil and territory would operate as a restriction.

Whilst this appears to be a safe as well as fair construction of the Constitution, it is also that which has been practically given to it since the origin of the Government. Of this, the instances already mentioned furnish some evidence; and it is apprehended, that, upon the rigid principles of construction asserted both in regard to the enumeration of powers and the appropriation of revenue, the acts of the Federal Government, including all its branches, will exhibit a continued series of violations of the Constitution, from the first session after its adoption, to the present day.

It would behove us to turn over the statute book, and deliberately examine how, upon these principles, the laws giving bounties to fishermen; encouraging manufactures; establishing trading-houses with the Indians; erecting and constructing beacons, piers, and light-houses, purchasing libraries; adorning with paintings the Chamber of Congress; giving charity to suffering foreigners; constructing roads through the different States; and establishing banks—can be reconciled to the provisions of the Constitution. If as has been

remarked by high authority,\* the Constitutional question can be "precluded by repeated recognitions, under varied circumstances of the validity" of the exercise of power by Congress, "in acts of the Legislative, Executive, and Judicial branches of the Government, accompanied by indications, in different modes, of a concurrence of the general will of the nation," the advocates for these powers in the General Government can find little difficulty in supporting the pretension.

From all these considerations, your committee submit it as their opinion, that Congress has the power to construct roads and canals through the several States, with the assent of the States, on such terms as may be agreed on, leaving the jurisdictional rights in the States, respectively. To these and other national improvements, which may be found to be within the Constitutional powers of the Government, they think it advisable that the interest of the Government in the Bank of the United States should be appropriated. They forbear to give greater length to this report, by enlarging on the important advantages to be derived from these national improvements. They also forbear at this time to offer the details of any plan upon the subject, presuming it most proper to obtain the sense of the House of Representatives, in the first instance, on the general proposition. For this purpose, they respectfully submit the following resolution:

*Resolved*, That, in order to promote and give security to the internal commerce among the several States; to facilitate the safe and expeditious transportation of the mails, by the improvement of post roads, with the assent of the respective States; to render more easy and less expensive the means and provisions necessary for the common defence, by the construction of military roads, with the like assent of the respective States; and for such other internal improvements as may be within the Constitutional powers of the General Government;—it is expedient that the sum to be paid to the United States, by the twentieth section of the act to incorporate the subscribers to the Bank of the United States, and the dividends which shall arise from their shares in its capital stock, be constituted as a fund for internal improvement.

#### COMMUTATION OF SOLDIERS' PAY.

The House then resolved itself into a Committee of the Whole on the bill for the commutation of soldiers' pay.

Mr. JOHNSON, of Kentucky, as chairman of the Military Committee, stated a number of facts bearing on the subject of the bill. The number of men in the service at the close of the war was ascertained to have been 34,000; the number who died in service or were killed in battle was estimated at about 17,000; making in the whole about 50,000 soldiers (and heirs of soldiers) entitled to the bounty in land. For this number eight millions of acres would be required. But it was a number overrated; and he did not believe that 40,000 would come forward to claim the land bounty. Of the whole number of 50,000, he calculated that not more than half would commute for money—say 25,000. To pay this number the proposed commutation would require five millions of dollars, or 1,250,000 annually for four

\* The Message of the President, in 1814, returning the Bank bill of that year.



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years; which mode of payment had been selected as well with a view to the benefit of the soldiers as to the relief of the Treasury. The committee, he said, had no doubt but the annual proceeds from the very land commuted would be sufficient to defray the whole amount; which would remove all objections of a financial nature, and he was not aware of any other. The measure, he hoped, would have the effect of cutting off all speculation, of which there was so much complaint, and by which the soldier was deprived of his rights under the influence of his necessities.

A debate of some length arose on this bill, and particularly on its details, which did not, however, result in any final decision. Among others—

Mr. HOLMES, of Massachusetts, doubted much the policy of the bill, and feared that Congress, in passing it, would be legislating for the benefit of the speculator, and not of the soldier. To obviate this effect as far as he could, he proposed an amendment, going to defer the operation of the bill to a distant day, that general notice might be given of it.

Mr. CLAY (the Speaker) supported the measure by much zeal, and by arguments favorable to the soldier, and adverse to the speculator. He did not, however, entirely approve of the details of the bill; to which he moved amendments, going to exclude any but original grantees from the benefit of the provision, and reducing the commutation to one hundred dollars for every 160 acres, and two hundred dollars for every 320. These amendments, however, he waived for the present, to give place to a motion to strike out the first section of the bill, in order to try the principle of the bill.

Mr. HOLMES, of Massachusetts, Mr. STORRS, of New York, Mr. SMITH, of Maryland, and Mr. CLAGETT, of New Hampshire, successively expressed their fears that it would be impossible so to arrange the details of the bill as to prevent its being converted to the benefit of the speculator. That the object of the bill is laudable was allowed; but, in addition to the objections of mere detail, it was also suggested, by some one or other of the gentlemen, that Congress had done their duty liberally, and had no need to do more; that the public funds could be better employed, if to spare; and, finally, that, if Congress once legislated on the subject, they would never see the end of supplementary laws, and individual claims for relief.

To all which Mr. CLAY briefly replied, that objections to the present details of the bill were no arguments at all, because the bill was open to amendment, and all that was necessary could be made, the House having once decided the principle. The principle of commutation he showed was so far from new, that Congress had already adopted it in regard to the heirs of deceased soldiers, allowing them the option of a limited pension in lieu of bounty land.

On the suggestion of Mr. LIVERMORE, of New Hampshire, the subject having been opened, and

opinions interchanged on it, to give time to reflect more upon them, the Committee rose, reported progress, and obtained leave to sit again.

And the House adjourned.

TUESDAY, December 16.

Mr. WILLIAM P. MACLAY and Mr. SERGEANT respectively presented petitions of sundry inhabitants of the State of Pennsylvania; which petitions respectively pray that additional duties may be imposed on pig iron, castings, and bar iron imported into the United States.—Referred to the Committee of Commerce and Manufactures.

On motion of Mr. WILLIAMS, of North Carolina, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of establishing a post road, from Norfolk, in Virginia, by the Great Falls of the Roanoke, in North Carolina, and through the town of Danville, in Virginia, to the State of Tennessee.

On motion of Mr. WHITMAN, the Committee on Pensions and Revolutionary Claims were directed to inquire into the expediency of continuing the pensions granted to invalids of the Army, who served in the late war, in case of their decease before the expiration of the term of five years, from the time of granting the same, to the widow or children of such deceased invalid, if any he has left, or shall leave, to the end of the said term.

On motion of Mr. ALEXANDER SMYTH, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of placing Henry Leonard, a soldier in the militia, who had his right arm disabled by the accidental discharge of a musket, while in the service of the United States, at Norfolk, on the list of pensioners.

On motion of Mr. TALLMADGE, the Secretary of State was directed to communicate to this House a copy of the account of M. M. Noah, late Consul of the United States at Tunis, and a copy of any instructions given to him by the Department of State, respecting the ransom of prisoners at Algiers; and any information in his Department relative to the application, by M. M. Noah, of any moneys in his hands, as such Consul.

On motion of Mr. CORB, the Committee on the Judiciary were instructed to inquire into the expediency of repealing so much of the third section of an act, entitled an "Act to establish a separate territorial government for the eastern part of the Mississippi Territory," as requires "that no judge shall sit more than twice in succession, in the same court;" and, also, so much of the said section as require more than one general court to be holden in each year, at the seat of government of said Territory.

On motion of Mr. SERGEANT, the Clerk of the House was directed to procure, for the use of the House, three copies of Dallas's Reports, three copies of Cranch's Reports, and three copies of Wheaton's Reports.

A message from the Senate informed the House

that the Senate have passed the bill, entitled "An act to abolish the internal duties," with amendments, in which they ask the concurrence of this House.

The following resolution was submitted by Mr. BASSETT.

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled,* That the daily compensation of the members of the Senate and House of Representatives, and Delegates for Territories, shall, until further provided for by law, be the same as in the year 1813.

The resolution was read; and, on the question, Will the House now proceed to consider the same? it was determined in the negative.

Mr. HERBERT, of Maryland, reported a bill, to incorporate the Columbian Insurance Company of Alexandria; which was twice read, and committed.

Mr. NELSON, of Virginia, from the Committee on the Judiciary, made an unfavorable report on the petition of Richard Jeffries; which was ordered to lie on the table.

On motion of Mr. SCOTT, Delegate from Missouri Territory, it was

*Resolved,* That the Committee on the Public Lands be instructed to inquire into the expediency of providing, by law, for the better regulating the leasing and working the public lead mines belonging to the United States in the Missouri Territory, in such a manner as to protect the lessees in the quiet enjoyment of their leases, and to enable the Government to collect its rents.

*Resolved,* That the Committee on the Public Lands be instructed to inquire into the expediency of providing, by law, for the leasing and working the Salines belonging to the United States in the Missouri Territory, on such part thereof as it shall be deemed advisable to put into operation for public use.

#### CERTIFICATES AND INDENTS.

Mr. RHEA, of Tennessee, offered for consideration the following resolution:

*Resolved,* That the Committee on Pensions and Revolutionary Claims be instructed to inquire into the expediency of suspending, for one year, so much of the act, entitled "An act making further provision for the support of the public credit, and for the redemption of the public debt," passed the third day of March, 1795, as bars from settlement or allowance certificates, commonly called loan-office and final settlement certificates, and indents of interest.

Mr. R. said, that it was well known that, in June, 1795, a law was passed, suspending the operation of the statute for one year, and giving that time for the settlement of outstanding Revolutionary claims. He had heard it said, of a former Committee of Claims, that, while this statute existed in force, hope could not enter the door of the chamber in which they sat. Such certainly at present was the case with the Committee of Pensions and Revolutionary Claims, of which he was a member. He could see no possible reason why the just claims outstanding against the Govern-

ment since the Revolutionary war, should not now be liquidated and paid off. On this subject, if it were necessary, Mr. R. observed that he could say a great deal. He had often felt warm when he had heard reports made in this House adverse to the just claims of such petitioners; and it was with no little violence to his own feelings that he had been compelled to make the report of yesterday, which had been ordered to lie on the table. He hoped his present motion would be agreed to, and that the committee would report a bill to suspend the operation of the act of limitation for one year at least. The nation, he said, was rich. The time had been when claims of this character had been laid over on the plea of poverty; that reason existed no longer, and he hoped that all just claims against the Government would now be paid.

The resolution was agreed to without opposition.

#### NATIONAL FLAG.

Mr. WENDOVER submitted for consideration the following resolution:

*Resolved,* That a committee be appointed to inquire into the expediency of altering the flag of the United States, and that they have leave to report by bill or otherwise.

Mr. W. said, in submitting this motion, that he should make but few remarks on this subject, not being a novel one; a bill relative thereto having been reported at the last session, but laid over from the pressure of business deemed of more importance. Had the flag of the United States never have undergone an alteration, he certainly should not, he said, propose to make a further alteration in it. But, having been altered once, he thought it necessary and proper that an alteration should now be made. It was his impression, and he thought it was generally believed, that the flag would be essentially injured by an alteration on the same principle as that which had before been made, of increasing the stripes and the stars. Mr. W. stated the incongruity of the flags in general use, (except those in the Navy,) not agreeing with the law, and greatly varying from each other. He instanced the flags flying over the building in which Congress sat, and that at the Navy Yard, one of which contained nine stripes, the other eighteen, and neither of them conformable to the law. It was of some importance, he conceived, that the flag of the nation should be designated with precision, and that the practice under the law should be conformed to its requisitions.

The motion was agreed to without opposition.

#### PETITION OF JOSEPH FORREST.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom was referred the report of the Secretary of State on the petition of Joseph Forrest, made a report unfavorable to the prayer of said petition; which was read, and concurred in. The report is as follows:

That the petition, with accompanying documents, was, by a resolution passed on the 26th of February

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last, referred to the Secretary of State; that, in compliance with said resolution, the Secretary has submitted to the House of Representatives a report, which the committee beg leave to insert in their report, with a view to bring the subject more distinctly before the House.

The report of the Secretary of State appears to the committee to be final as to one point, viz: that the United States were charterers, but not insurers of the voyage, and, therefore, are not liable, by any principle of contract or retributive justice, to the petitioner. And although the committee perfectly accord in the generous sympathies expressed for the sufferings of a fellow-citizen, yet they cannot think it would be right for Congress, in this case, to follow the impulse of those feelings. On this point, however, the Secretary of State has given no opinion, but submits it to the discretion of the Legislature.

The claim may present itself in a point of view still stronger, when we reflect that the sufferings of the petitioner have been induced by embarking on a voyage for charitable purposes to a distant land. But the committee think we should not in the meantime forget that the relief afforded to foreigners in distress proceeded alone from the munificence of the Government. The petitioner had only the custody of the benefaction, not an interest in it; he asked, and no doubt received, for the use and risk of his vessel, precisely the same as if it had been destined to pursue "a voyage of ordinary traffic or indifferent intercourse." The petitioner cannot, in the opinion of the committee, be entitled to share with Government the beneficence of character which this transaction might impart. In deciding the case, therefore, they must return to the more regular, better settled, and, in their opinion, safer principles of justice, as applicable to an ordinary contract. And here the committee are happy to say again, that the opinion of the Secretary of State is in perfect accordance with their own, "that the United States are not bound by their covenants to indemnify the petitioner for his loss." They think this the only safe criterion to be adopted by Congress. The feelings of generosity are too indefinite to be admitted as a rule of conduct in a series of legislative acts.

Individuals may—yes, it is their duty to bestow seasonable gratuity on meritorious objects; but on individuals these demands will be limited. The number of them, if satisfied to their full extent, cannot be supposed to draw after them intralment and distress as a consequence to the benefactor. If they did, they would cease to be obligatory; for it is a plain rule of morality, that, to take from those who want in order to give to those who want, adds nothing to the sum of human happiness.

Of a nature similar to acts of individual beneficence was the measure of the Government for relieving the inhabitants of Venezuela from the afflicting calamities of an earthquake. Our own citizens, similarly situated would be entitled to, and would unquestionably receive, the most active, the most liberal munificence of Government. But the case of the petitioner is of a different kind; he prays relief from an ordinary accident, a common casualty, the loss of a vessel, such as might happen every day. Once adopt the principle that cases of this sort are to be relieved, and who can define the limit at which it may be possible to withhold munificence from the claims of suffering and distressed humanity? Every vessel wrecked at sea; every house consumed by fire; every field devastated by storm; in

short, every accident resulting from any fortuitous concussion of elements, either natural or moral, would be the basis of an equal claim to your indulgent consideration. That they would multiply beyond all proportion to your ability to meet them, needs no comment to make it obvious to the House. Not only so, but distress in assumed, if not hypocritical forms, might assail you, till the burden imposed on the citizens for the purposes of general or unlimited relief would far exceed the misfortunes you should propose to alleviate. The committee think they see great danger in acting on such extended (perhaps some would say generous) principles. They see, on the other hand, great safety, if not a paramount duty, in conforming their decisions to the simple precepts of justice. If in the present case Congress should grant relief, may not a great number of cases, appealing with equal force to your generosity, arise during the present session? Allow one, and all of them must be entitled to the same benevolent respect, or Congress would be liable to the charge of invidious discrimination. It requires only a moderate foresight to discover that, instead of performing the duties assigned them by their constituents, instead of attending to the general concerns of the nation, Congress must, in a few years, be altogether employed in acts of charity and beneficence to individuals. Such a result, the committee think, would be as incompatible with the duties they owe their fellow-citizens, with that vigilance and attention generally to the affairs of the people whom they represent, as it would be inconsistent with the rules of wholesome legislation. They, therefore, recommend to the House the following resolution:

*Resolved,* That the prayer of the petition ought not to be granted.

The Secretary of State, to whom, by a resolution of the House of Representatives of the 26th of February last, were referred the petition of Joseph Forrest, and the documents accompanying the same, has the honor of submitting the following report:

In the month of May, 1812, the schooner William Yeaton, George Travers, master, belonging to the petitioner, was chartered, at New York, by James Christie, as agent of the Government of the United States, to carry from New York to Laguayra, in South America, a cargo of flour, being part of a donation granted by the Congress of the United States to the inhabitants of that country, which had recently been afflicted by the calamity of an earthquake. In the charter-party for his voyage, the petitioner's agent, George Davis covenanted, among other things, that the said schooner should "be made ready, fitted, and provided by the said George Davis with all necessary and convenient things for such a schooner bound on the proposed voyage, and furnished with sufficient men and all other necessities during said voyage;" and the United States covenanted to pay for the cargo to be put on board the said schooner by them at the rate of one dollar and fifty cents for every barrel of flour, seventy-five cents for every half-barrel of the same, and forty cents for every bushel of corn, as the full freight and compensation for the proposed voyage, with a deduction of five per cent. for payment before the vessel sailed from New York; and it was agreed that the petitioner's agent, George Davis, should have the privilege of carrying to Laguayra on board of said schooner four passengers.

These were all the covenants stipulated on the part of the United States in the charter-party.

The vessel sailed from New York on the 28th of May, provided with a special passport, under the seal of the United States and the signature of the President, declaring that she was bound from the port of New York with a cargo of provisions intended as a donation from the Government of the United States to the unfortunate inhabitants of Venezuela, who had suffered by the late earthquakes there. She arrived at Laguayra on the 1st of July, 1812.

Before she had entirely discharged her cargo, the place, which had been in a state of revolt against the authority of Spain, was taken by the royal forces, and the vessel, with several others alike situated, was seized and condemned for a breach of the Spanish colonial laws, in going to the place without permission from any Spanish authority. The sentence of the court alleges that it was notorious to all the inhabitants of the United States, having been published in the gazettes, that all foreign vessels going to Laguayra, then in a state of insurrection, without a certificate of the Spanish Consul at the port of their departure, would, by virtue of repeated royal ordinances, be seized and confiscated; that, had the object of the Government of the North really been to relieve the unhappy inhabitants of Venezuela, who had suffered the desolation of an earthquake, the Spanish Consul could not have refused the aforesaid certificates when applied to such acts of humanity; and hence the court inferred it as clear that the sole object of the Government of the United States was to support the people of Venezuela in the obstinacy of their criminal independence; and that the voyage of the vessels in question, of which the petitioner's schooner was one, was to infringe the royal Spanish regulations, or to elude their fulfilment under such pretexts.

In the ensuing month of October the vessel was restored to Captain Travers, at the instance of Don Onis. A survey was made of her by four masters of American vessels, under authority of the Consul, Mr. Lowry, to ascertain the damages to the owner occasioned by the detention. They reported that the vessel had not suffered much damage; but they awarded to the owner twenty-four dollars a day demurrage for eighty-nine days of detention, from the day of her seizure to that of her restoration.

In the meantime, the war between the United States and Great Britain had commenced. It was impracticable for Captain Travers to freight, or even to bring back the vessel to the United States. He was obliged to sell her for the payment of the necessary expenses; and the proceeds of the sale were inadequate to defray them.

The loss was total. The only question is, upon whom must it fall—the United States or the petitioner? No express covenant in the charter-party binds the United States to indemnify the owner for arrest or detention of the vessel by a foreign Prince or State. It is not perceived that there was any implied contract to that effect. It was a subject to be covered by a policy of insurance, like the dangers of the sea. The United States were charterers, but not insurers of the voyage.

There is another point of view in which the question may be placed, more favorable to the claim of the petitioner, but upon which it must rest with the discretion of the Legislature to decide. The real object of the voyage was to perform a national act of benefi-

cence and humanity for the relief of foreigners suffering under one of the most awful visitations of Heaven—an earthquake. It also happened that they were, at the time, suffering under a calamity no less dreadful, though inflicted by their fellow-creatures—they were in a state of civil war. The authority of the sovereign against whom they were struggling was at that time not recognised in the United States. There was no Spanish consul, acknowledged as such by the Government of the United States, and to whom the petitioner or master of the vessel could have applied to obtain that certificate which, in the estimation of the royal authorities at Laguayra, was indispensable to save her from seizure and confiscation. Those royal authorities, in a state of expulsion when the vessel was chartered and sailed from New York, by one of the vicissitudes of the war recovered possession of Laguayra immediately after the arrival of the vessel there. The seizure and confiscation of the vessel were not occasioned, therefore, by any fault or neglect of the master of the vessel, or of its owner.

The object of the American Government was not, as the passions of the moment misconstrued it, to foster and foment rebellion; it was not even ordinary traffic or indifferent intercourse. It was a virtuous impulse of the highest order; it was beneficence, to relieve the distress of other nations and tongues. In the fervor of this generous sentiment, if the Congress justly concluded that they were discharging their most imperious duty to their constituents by appropriating their money to alleviate the distresses of a distant and foreign land, would not the same, or at least a congenial sentiment, warrant them in extending their bounty to their own citizens, who, in the very act of carrying their munificence into effect, fall into unmerited misfortune? Will they suffer their own countryman to find his ruin in the very fulfilment of their gratuitous kindness to foreigners? As an ordinary question upon a contract, the subscriber respectfully reports it as his opinion that the United States are not bound by their covenants to indemnify the petitioner for his loss. Whether the consistency of benevolence, in a transaction founded altogether upon the basis of sacrificing pecuniary interest to a higher principle, requires that the prayer of the petitioner should be granted, he is bound to leave to the beneficent feeling and deliberate judgment of the House.

All which is respectfully submitted.

JOHN QUINCY ADAMS.

#### COMMUTATION OF SOLDIERS' PAY.

The House resumed the consideration, in Committee of the Whole, on the bill for the commutation of soldiers' pay.

The question being on striking out the first section of the bill—

Mr. SAWYER, of North Carolina, opposed the bill by a variety of arguments, but principally on the ground of the heavy demand it would create on the Treasury. Money, he said, was power. He did not wish to live to see another empty Treasury. We had enough of that during the last war; and if that war had continued another year, he did not know what would have been the consequence. After advancing various illustrations of the value of a full Treasury, Mr. S. added, that he considered this bill as merely offering a premium on speculation. It was surpris-

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ing, he said, how industrious we are when we get a little money into the Treasury to get it out again—no prodigal was ever more anxious to lavish a rich inheritance. For his part, he wished that there could be stationed at the door of the Treasury an angel with a flaming sword, to prohibit entrance to all who had not a pass from the Genius of Economy, and countersigned by the hand of Justice.

Mr. CLAY (Speaker) rose to read to the House a new bill, by way of amendment to that now under consideration, which he should propose, if the House decided to reject the motion now pending. The proposed amendment consisted of several sections, providing distinctly for the three classes of those who had obtained patents, those who had obtained warrants, and those who had as yet applied for neither; provisions calculated equally to guard the Treasury, Mr. C. conceived, and to protect the interest of the soldier; and so worded, as to exclude from the benefit of the act all but original grantees, holding in their own possession the evidence of their right to the commutation. Mr. C. explained the operation which he anticipated to the various provisions of the bill. With regard to the doubts which had been expressed of the legislative power, Mr. C. said he had not the remotest doubt, and could not conceive of a doubt on the subject. Neither had he the smallest doubt that any contract made with any soldier for his right to bounty land, prior to the emanation of his patent, was totally void. The speculation which was anticipated in the quality of the land, by which the best would be retained by the soldier or bought by the speculator, and the worst be returned, by the process of commutation, to the Government, was guarded against in the amendment he had read. Mr. C. said, he believed, indeed, that the Government could not make a better speculation than in the repurchase of the public domains, which, he was compelled to admit, with the gentleman from Maryland, (Mr. SMITH,) had been rather wastefully bestowed; in a manner justified, however, by the circumstances of the times, when men were wanting, and we had no money, but had land in plenty to offer them. The amount of money the measure might draw from the Treasury would be most economically applied by such an appropriation of it as he advocated.

Mr. DESHA, of Kentucky, thanked his colleague for the amendment he had proposed. He was perfectly satisfied, he said, that there was not a man in the House who had not sympathized with the soldiers in the sacrifices they were obliged to make of their land; he was satisfied the proposed amendment would obviate the objections which had been suggested to the measure, and benefit the Government and the soldier, and not the speculator. If the amount of commutation were fixed at one dollar per acre, the soldier would know he could get \$160 for his land, and the speculator must bid higher. Mr. D. was satisfied that all the lands were worth two dollars per acre, and the Government would be a great gainer by such commutations as were made. Mr. D. expressed

his hope, therefore, that the motion to destroy the bill would be withdrawn.

Mr. STORRS, of New York, was opposed to the proposition for commutation in any shape, contending that its operation would be to benefit the speculator, and not the soldier whom it proposed to relieve. He went into a view of the mode in which it would have this operation. The soldier could not, he said, present in person his patent, warrant, or claim at the Treasury; it would cost him, generally, more than the whole value of his land to do it. He must do it by deputy; and this bill would give greater facility to the speculator than he now possesses of flitching from the soldier the greater part of his commutation, which to receive would require a mere order from the soldier, after his patent or relinquishment was deposited, in favor of any man who should have shaved it for him. To pass the proposed bill would be merely sowing a new crop of dragon's teeth, from which would spring up a fresh set of harpies, worse than those of which we now complain. The value of the land was daily better understood and appreciated by the soldier as well as the public, and the danger of his being imposed on, Mr. S. suggested, would every day be lessened. He could not well imagine, he said, under what right of legislation the right of the patentee to the land could, after a specified time, be barred, as proposed in the amendment which had been read by the Speaker; or how his vested right to the fee simple of the land could be taken from him by any subsequent act of Congress. Mr. S. made sundry other objections of detail to the measure of commutation, all which combined assured him it would be a measure worse than useless to the soldier, and not beneficial to the Government.

Mr. HARRISON, of Ohio, advocated the bill, and replied to the main objections which had been proposed to its proposed details. He considered the measure highly important to the Government, and to the soldiers, and equally beneficial to both, and deprecated its being defeated by arguments against details susceptible of amendment in such a manner as to obviate the objections. The claimants, he believed, would be at no cost, as suggested by Mr. STORRS, in procuring their commutation. He would answer for all the Western country, that their Representatives in Congress would, with pleasure, perform the duty gratuitously for them, and he hoped he might, in like manner, answer for those from New York. He believed the passage of such a law would have the valuable effect to take the soldier out of the hands of the speculator, without the Government being called upon to purchase but a very small proportion of these lands. As to the idea of speculations in good or in bad lands, Mr. H. said the laws of the country provided that the soldier should have good land for his bounty; and if, among the land set apart for satisfying the soldier's claims, there was any bad land, it ought to be thrown back on the Government. A part of the land surveyed had been reserved as bad, and if more of the indifferent land

should revert to the Government by this measure, it would be a measure of justice, and no more than we had solemnly promised to the soldier. Mr. H. made some remarks to show that the proceeds of the sales of public lands would be greater than some gentlemen had supposed, and amply sufficient to cover the immediate expenses of this measure, if adopted.

Mr. HOLMES, of Massachusetts, in consequence of the call made on him to withdraw his motion to strike out the first section of the bill, rose to defend the position he had taken. He avowed that he was the last man who would be disposed to urge anything against the soldier; he would not merely say, the soldier was already paid, and for that reason refuse to give him more aid; he would not insist upon the pound of flesh as stated in the bond, but if the soldier needed the aid of Government, although once paid, the Government ought to extend its charity to him. Our soldiers, he said, had indeed been paid, and well paid; some of them so well, that they had received an hundred and twenty-four dollars of bounty, in money, and an hundred and sixty acres of land, and never served the Government at all. Did the Government mean to act on the principle of charity to those who had served it? Mr. H. asked. And, if it did, were these soldiers the class most deserving its bounty? He believed not; but that it would be more properly applied to the disbanded officers, and particularly to the grade from captain downwards. The private soldier had been well paid, and clothes and arms found him; the officer, clothing and arming himself upon the pittance allowed him, had sought for glory for his reward—but, before he obtained it, he had been disbanded and cast upon the world. Mr. H. said he should be for relieving this meritorious class of men; but not so much for adding to the rewards already bestowed on the soldier. But, he proceeded to argue, if the measure was expedient, on this ground, it would not in practice answer the expectations of its advocates. He referred to the arguments originally urged in support of the bounty law, to show that one of the objects of the land bounty had been avowed to be the settlement of our frontiers by military men, in order to defend the country from invasion by the savages. That object, he intimated, appeared to be cast aside by the advocates of this bill, who were now anxious that the land should revert to the United States. Mr. H. proceeded to examine the details of the amendment suggested, to show that, in every shape, speculators would derive the principal advantage from this bill. Notwithstanding warrants were not transferable, there were means, he said, by which the property of these soldiers might be alienated by them; for instance, by power of attorney authorizing a person to transfer all lands that belong to the constituent, and that power rendered irrevocable, with a covenant of further assurance, &c. But, Mr. H. asked, are we not doing worse than aiding the speculators? Is not the Government becoming the grand speculator? Is it not going to speculate

on the soldier? The minimum price of our land, he said, was two dollars per acre, and we are going to buy it from the soldier at half that price! This would not only be fixing the price for ourselves, but for others; for the lands would not sell for more than the Government gave for them. On the whole, Mr. H. concluded by saying, he was inclined to think, that in any shape the bill would not benefit the soldier.

Mr. CUSHMAN, of New York, next addressed the Chair, on the same side as Mr. HOLMES, denying that any substantial benefit could result from the passage of the bill, either to the soldier or to the nation. He questioned the certainty of the proceeds of the sales of the lands commuted being sufficient to pay the amount of the commutation; deducing his argument from the amount of sales of public lands heretofore, he concluded that it would require twelve years' proceeds of the sales of public lands to answer the object. This would certainly be a heavy tax on the Treasury. Mr. C. denied the probability of speculators coming into the market with the soldiers' lands for sale; because, as it appeared from the President's Message, that speculators had purchased at the public sales large quantities of the public land, awaiting the benefit of the rise expected to take place in them. But, if the speculators should come in competition with the Government, the whole amount they could sell would not sensibly affect the public receipts from the sale of the public lands. These were a few of Mr. C.'s remarks.

Mr. HUNTINGTON, of Connecticut, was opposed to striking out the first section of the bill. His object was not to increase the bounty of the soldiers, but to give an opportunity to gentlemen to propose amendments. He thought it perfectly fair to allow gentlemen to make the bill as perfect as they could, and to reserve the right of voting against the bill thereafter, if he thought proper.

Mr. COMSTOCK, of New York, said, in the commencement of his remarks, that it might not be prudent for a man who had spent the greater part of his life in mixing up medicines, to mingle in the conflict of lawyers on this question; but the interest he felt in it, superseded such considerations. He was decidedly opposed to striking out the first section, because, as he proceeded to show, he thought Congress could legislate with propriety and beneficially on the subject. The Government, in granting this bounty land, he admitted, had been liberal, but not too much so; but we have to deplore that speculation has grown out of it which required the interposition of the Legislature; which, he argued, ought not to be withheld on the plea that abuses might grow out of any legislation on the subject. In proof of existing abuses, he said, it was well known that rights to one hundred and sixty acres had been repeatedly sold by the soldiers at this place, at the rate of one hundred and sixty acres for fifty dollars; and, if he had chosen to have availed himself of the improvidence of a poor soldier before he left home, he might have obtained his



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right for *ten dollars*; and they had frequently been sold, he presumed, at from ten dollars to one. If such an evil admitted of no remedy, it was a prodigy. But Mr. C. thought there was a remedy, and that this bill would afford it. Even the stand which had been already taken in this House, would have the most beneficial effect, as it would convince the soldier that many gentlemen on this floor believed his land to be worth vastly more than his fellow-soldiers had sold for. When he offered the motion which had given rise to the introduction of this bill, Mr. C. said he had hoped something would grow out of it; and if, unfortunately, the bill should not pass, he believed the agitation of the question would be found to have cured much of the evil.

Mr. LIVERMORE, of New Hampshire, next expressed his views on the main subject of the bill. He thought the measure neither sustainable on the principle of justice, nor on that of munificence—justice requiring only that the Government should fulfil its contract with the soldiers, &c. He did not think it consistent with the dignity of the United States to turn speculator and purchase land from the soldier at a certain price, that it might be sold out at a double rate. The idea of purchasing lands on speculation he thought novel, and unworthy of the Government, if not unauthorized by the Constitutional powers of Congress. If munificence was the argument on which the measure was to be sustained, he thought there were a thousand ways in which it could be more advantageously employed, even in favor of the soldier. Soldiers, he said, always had been speculated on, and you might as well attempt to shield his body from the bayonet of an enemy, as to shield the soldier from the arts of the speculator, by any provisions of law. Mr. L. was in favor of striking out the section, because he believed the measure would be of no benefit to the soldier, and was inexpedient as regarded the Government.

Mr. CLAY vindicated the amendment which he had suggested from misconceptions which had prevailed in the course of the debate on it. In reply to the objection made by Mr. STORRS to the power of barring the soldiers' rights, in certain cases, Mr. C. denied its force, and showed that such a power had been repeatedly exercised by the Government in carrying into effect its general power to levy taxes, &c. As to the necessity the soldier would be under of procuring his commutation by an attorney, Mr. C. said he did presume there was no gentleman who had the honor of a seat on this floor who would hesitate to receive and remit, to any soldier, his commutation without expense to him. To those who entertained such squeamish fears of the Government engaging in speculation, Mr. C. said, he could use no argument. If they could calmly view the spectacle of the sale of one hundred and sixty acres of land for ten dollars, and could be alarmed at the idea of speculation on the part of Congress, no argument would move them. The idea of commutation, Mr. C. said, was not new; it runs through our statute book; it began with

the soldier of the Revolution; and has been applied to the heirs and representatives of the same class of men to whom it was now proposed further to extend it. Hundreds of cases might be found in which the Government had offered a present less for a greater contingent value; and nothing like the reproach of speculation was justly chargeable on this measure. Here was a vast public domain, cast away by the Government from the necessity of the times; and what was now proposed to him who was about to be rifled of their share of it by speculators? To take, in lieu of the sum he is to get from the speculator, a sum vastly larger. Mr. C. quoted a letter he had just seen from an officer in one of our forts expressing his hopes that this bill would pass, and stating some of the impositions practised on the soldier within his knowledge. He could not enter, he said, into the feelings of gentlemen who could look down into the garrets of the country, and see these shameless speculations, and not make an effort to redeem the land from this vile reproach. Nor could he agree with gentlemen who had Constitutional scruples on this subject. This was so fashionable nowadays—the Constitution had become so much a nose of wax in the hands of politicians—that no argument from it excited surprise. The land of the country, and the money of the country, were perfectly within the power of Congress; and he was not aware of any clause in the Constitution forbidding them to exchange the one for the other. He admitted that justice, so denominating strict law, did not require this measure at the hands of Congress; but it was a mixed measure of gratitude, of justice, and of policy—a consultation of the interest of the soldier, and a prevention of most odious speculation. Decided how it might be, if rejected, he should avail himself of the consolation of the gentleman from New York, (Mr. COMSTOCK,) that whatever might be the fate of the bill, its introduction might have had the effect, by reaching the ear of some solitary individual, of enabling him to get something nearer the value of his land-right than he would otherwise have gotten.

But, said Mr. C., the strong box! the defenders of the *Treasury* were alarmed at the vast out-goings this bill might cause. Mr. C. said their alarm was needless. The Government might not have, perhaps, to pay twenty thousand dollars in a year for commutation money—for the effect and the great value of the measure would be to fix the market price at a sum higher than the commutation; which, however, the soldier would have the option to take, if he could not get more. With regard to the settlement of the country, which it was feared would be defeated by this measure, Mr. C. said that he came from a part of the country which was anxious to see the forests felled and the savannahs redeemed to cultivation; and, if he believed in the supposed effect of the measure, he should be of a different opinion. But there was nothing in that argument; for the soldier who intended to settle his land would yet do it, the commutation bill

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notwithstanding. This bill would not prevent the settlement of an acre, &c.

Mr. SOUTHARD, of New Jersey, viewing this as a great question of national policy, affecting not only the national property, but the rights of forty thousand individuals, and which therefore ought to be maturely considered, moved that the Committee rise.

Mr. SERGEANT, of Pennsylvania, seconded the motion, in order to move a recommitment of the bill, with instructions to report a provision for substituting a pension for life in lieu of the proposed sum of money to be given by way of commutation. He did not, he said, wish that the Government should embark in this business by way of speculation. The interest of the soldier alone should be consulted. As to land it was of no value generally, to him, because, for the most part it was so situated that it was impossible for him to get at it; because he was generally ignorant of its value, and did not even know how to go about to get his title. A pension during life might be of some service to him, and was greatly preferable to a sum given at once, which would be wasted as soon as received.

The Committee rose, and after Mr. JOHNSON, of Kentucky, protesting against pensioning fifty thousand men for life, Mr. SERGEANT'S wish was overruled, and the Committee had leave to sit again.

WEDNESDAY, December 17.

Another member, to wit: from North Carolina, JOSEPH H. BRYAN appeared, produced his credentials, was qualified, and took his seat.

Mr. ROBERTSON, from the Committee on Public Lands, reported a bill for the relief of Samuel Arkman, and a bill for the relief of Joseph Earwood; which were severally twice read, and committed.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made an unfavorable report on the petition of John G. Mackall; which was read, and concurred in.

On motion of Mr. POINDEXTER, the Committee on the Judiciary were instructed to inquire what provisions are necessary to give effect to the laws of the United States within the State of Mississippi.

On motion of Mr. HOLMES, of Massachusetts, a committee was appointed to inquire into the expediency of providing, by law, for the pay of the members of the Senate and House of Representatives, and the Delegates from the Territories of the United States; and the said committee had leave to report by bill or otherwise.

Mr. LIVERMORE, of New Hampshire, moved that this committee consist of twenty members, that one might be selected from each State, and thus bringing thereto the views and impressions of the various parts of the country, might agree upon a report which would save the House the alternative of exhibiting itself before the world in the unpleasant attitude of debating its own compensation. This number being objected to

by Mr. HOLMES, who wished the usual number of seven to be appointed, Mr. LIVERMORE withdrew his motion, and a committee of seven were ordered to be appointed; and Messrs. HOLMES of Massachusetts, PITKIN, ANDERSON of Kentucky, MOORE, STORRS, ABBOTT, and NEWTON, were appointed the said committee.

On motion of Mr. HARRISON,

*Resolved*, That the Secretary of War be, and he is hereby instructed to report to this House the amount of the pensions which have been granted to the widows and orphans of deceased officers and soldiers of the late war, specifying the number of each grade of officers to whose widows or children the pensions have been granted.

On motion of Mr. TYLER, the Committee on the Judiciary were instructed to inquire into the expediency of causing offices to be erected for the safekeeping of the records, papers, and documents, of the several district courts of the United States, at or near the places of holding said courts, respectively.

On motion of Mr. SERGEANT,

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of authorizing the judges of the district courts, in the several districts, and the judges of the Supreme Court of the United States, within their respective circuits, to supply any vacancies that may have happened, by reason of the death, resignation, or disability, of the general commissioners of bankruptcy, appointed by the President under the authority of the act, entitled "An act to amend the judicial system of the United States," where the same may be necessary to complete the execution of any pending commission of bankruptcy.

A message from the Senate informed the House that the Senate have passed a resolution "authorizing the distribution of certain public documents;" and they have also passed the resolution "directing a distribution of certain laws among the members of the Fifteenth Congress," with amendments, in which resolution and amendments they ask the concurrence of this House.

The resolution authorizing the distribution of certain public documents was read the first and second time, and ordered to be read a third time to day. It was accordingly read the third time, and passed.

The amendments to the resolution, directing a distribution of certain laws among the members of the Fifteenth Congress, were read, and concurred in by the House.

The amendments proposed by the Senate to the bill, entitled "An act to abolish the internal duties," were read, and concurred in by the House.

#### ESTIMATE OF APPROPRIATIONS.

The SPEAKER laid before the House the following communication from the Treasury Department, which was ordered to be printed, with the accompanying documents:

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Claims for Losses in Michigan.

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TREASURY DEPARTMENT,  
December 17, 1817.

SIR: I have the honor to transmit herewith for the information of the House of Representatives, an estimate of the appropriations for the service of the year 1818, amounting to \$10,925,191 62, viz:

For the Civil List - - -	\$1,070,708 02
For miscellaneous expenses - - -	490,308 51
For intercourse with foreign nations -	487,666 64
For the Military Establishment, including arrearsages, and Indian department - - -	6,265,132 25
For the Naval Establishment, including the marine corps - - -	2,611,876 20
	<hr/> \$10,925,191 62 <hr/>

The funds out of which the appropriations for the year 1818 may be discharged, are the following:

1. The sum of six hundred thousand dollars, annually reserved by the act of the 4th of August, 1790, out of the duties and customs, towards the expenses of Government.

2. The proceeds of the stamp duties, and the duty on sugar refined within the United States.

3. The surplus which may remain of the customs and internal duties, after satisfying the pledge for which they are pledged and appropriated.

4. Any other unappropriated money which may come into the Treasury during the year 1818.

I have the honor to be, very respectfully, sir, your most obedient servant,

WM. H. CRAWFORD.

The Honorable the SPEAKER  
of the House of Representatives.

## CLAIMS IN MICHIGAN.

The SPEAKER laid before the House a letter from the Secretary of State, transmitting his report on the petition of sundry inhabitants of Detroit, in the Territory of Michigan, referred to him on the 6th of February, 1817, which were referred to the committee on the 10th instant, on the petition from sundry inhabitants on the river Raisin, in the said Territory.

The report is as follows:

The Secretary of State, to whom, by a resolution of the House of Representatives of the 6th of February last, was referred the petition of sundry citizens of the United States, inhabitants of the district of Detroit, in the Territory of Michigan, has the honor of submitting the following report:

The petitioners allege that they have suffered great losses of property by the violation, on the part of the British forces, and especially by the Indian savages, then acting as auxiliaries under them, of the capitulation by which, on the 16th of August, 1812, the Territory of Michigan was surrendered to the British General Brock; one article of which capitulation stipulated that private persons and property of every description should be respected.

That, by this violation of the capitulation, the petitioners acquired a just claim upon the British Government for indemnity and satisfaction, which they expected the Government of the United States would have prevailed upon that of Great Britain to make, by paying the petitioners for all the losses and damages sustained by them in consequence thereof.

That the United States, having concluded a Treaty of Peace, and subsequently a Commercial Treaty, with Great Britain, without mention being made of the Territory of Michigan, or of these claims of the petitioners, they have thereby lost their claim of redress and indemnity upon the British Government; but that the obligation of making it has thereby devolved upon the United States, to whose justice and liberality they appeal accordingly for remuneration and payment.

Extracts from the documents upon the records of the Department of State are herewith annexed, serving to show the liberal principles upon which the Government of the United States were desirous of proceeding in terminating the war, and at the same time the anxious care with which they urged a provision of indemnity for the citizens of the United States who had suffered loss or damages such as those complained of by the petitioners. This provision was insisted on until it was distinctly known that the only alternative to its abandonment was the inevitable continuance of the war.

How far the United States themselves are answerable to their individual citizens for the losses and damages occasioned by the enemy, and unhappily incident to the condition of war, it is for the wisdom of Congress alone to determine.

JOHN QUINCY ADAMS.

DEPARTMENT OF STATE, Dec. 16, 1817.

[Extract from letter of instructions, dated Jan. 28, 1814.]

*Mr. Monroe, Secretary of State, to the American Plenipotentiaries appointed to treat of peace between the United States and Great Britain.*

On the claim to indemnity for spoiliations, I have only to refer you to what was said in the former instructions. I have to add that, should a treaty be formed, it is just in itself, and would have a happy effect on the relations of the two countries if indemnity should be stipulated on each side for the destruction of all unfortified towns and other private property, contrary to the laws and usages of war. It is equally proper that the negroes taken from the Southern States should be returned to their owners, or paid for at their full value.

*Extracts from the project of a treaty of peace submitted by the American Plenipotentiaries to the British Commissioners at Ghent on the 10th of November, 1814, and returned by the latter with accompanying remarks.*

ART. 10. His Britannic Majesty and the United States shall, by all the means in their power, restrain the Indians living within their respective dominions from committing hostilities against the territories and citizens or subjects of the other party. And both Powers also agree, and mutually pledge themselves, if, at any time, war should unhappily break out between them, not to employ any Indians, nor to admit of their aid and co-operation in the prosecution of the war against the other party.

[ART. 10. Inadmissible.]

ART. 13. It is agreed that indemnity shall be made by His Britannic Majesty to the citizens of the United States for all losses and damages sustained by them during the late war between Great Britain and France, and prior to the commencement of the present war, by reason of irregular or illegal captures, seizures, or con-

demnations of vessels and other property, under color of authority, contrary to the known and established rules of the law of nations. And it is also agreed that indemnity shall be made by each of the contracting parties to the citizens or subjects of the other party for all losses and damage sustained subsequent to the commencement of the present war, by reason of the seizure or condemnation of the vessels or cargoes belonging to the subjects or citizens of the one party, which, in the ordinary course of commerce, happened at the commencement of hostilities to be in the ports of the other party; and by reason of the destruction of unfortified towns, and the pillage or destruction of private property, and the enticement and carrying away of negroes, contrary to the known and established rules and usages of war between civilized nations.

[ART. 13. Inadmissible.]

The first part of the tenth article appears to be unnecessary, and the stipulation contained in the whole of it altogether inadmissible. Though His Majesty's Government sincerely hopes that a renewal of the war between His Majesty and the United States may be far distant, yet the undersigned cannot consent to enter into any engagement as to what shall be the conduct of their Government if such a war should unfortunately occur.

With respect to the thirteenth article, the indemnifications proposed by it, as applied to the actual circumstances of the war, are so unprecedented and objectionable, that any further perseverance of the American Plenipotentiaries in requiring them is not anticipated by the undersigned; if, however, contrary to expectation, indemnifications of this kind should be required, all hope of bringing the negotiations to a favorable issue must prove abortive. The undersigned are instructed explicitly to declare that, as their Government makes no claim on account of losses sustained by British subjects arising out of a war declared by the United States, so neither can their Government agree to make compensation for losses sustained in such a war by the American people.

#### COMMUTATION OF SOLDIERS' PAY.

The House then again resolved itself into a Committee of the Whole on the bill to provide for commuting the bounty lands of the soldiers of the late Army, the motion to strike out the first section being still under consideration.

Mr. BALL, of Virginia, rose in opposition to the bill. It was impossible, he said, for any legislative provision to put down speculation on the soldiers; and even if it could be put down, it would drive from the market all purchasers, all competition, and thus do an injury to that class who might be benefited by a fair sale. If the bill were to pass in the present shape, the soldier would be told by the speculator that the Government knew the value of his land, had fixed a price on it, but was unwilling or unable to pay that price; he would offer to advance the money to the soldier, but would demand a premium for prompt payment. It would, Mr. B. said, be as well to attempt to stop a steamboat with a straw as to prevent a prodigal soldier, used to dissipation, from becoming the prey of speculation. Mr. B. referred to the cases of Revolutionary soldiers who had petitioned for relief in vain; those brave men who had fought for our independence, and broken the bands of tyranny asunder; of whose

toils we now enjoyed the benefits. Their petitions were neglected, their very names forgotten. When these war-worn veterans received justice in this House, but not till then, could he hear, without a blush, of liberality to others, or would he vote for this bill.

Mr. ANDERSON, of Kentucky, thought much of the objection which had been urged against the bill arose from a small class of cases, which would not comprehend more than three thousand. But, he contended, if it could be shown that the great number to whom patents were yet to issue would be benefited by the bill, it was not a sufficient objection that those would not participate in it who had sold their patents. If good would come to the many who are yet to receive patents, he cared not for those who had received and sold theirs; nor could they charge the Government with injustice or a want of generosity to them. In making this commutation, the soldier received more than he would get from speculators, and the Government would also receive advantage from the change. In doing this, Mr. A. said, he disregarded the character which was imputed to the transaction; and if he could benefit the soldier he cared not for the name of speculator. But this could not be: the soldier himself would enter his everlasting protest against so unjust a reproach, while he enjoyed the benefit of the act. It was true, as was argued, that this bill might not entirely stop speculations on the soldier; but, if they still took place, Mr. A. said, the amount of sacrifice would be much less. The security being good, it would be the remoteness of payment alone which could sink the value of the commutation. Mr. A. adverted successively to the objections, that the Government could not spare the money, and that this act would retard the settlement of the territory; and entered into various arguments in reply on these points. He commended the present system of managing the public lands, and said no change in it was necessary: it had all the effect which could have been anticipated or conceived, and would soon diffuse through our whole territory one widespread population. He argued, also, that this bill would exalt the reputation of the Government for justice and liberality, and would prove a solid benefit in future wars by facilitating the enlistment of men. This he thought an important consideration, and ought not to be overlooked. If this measure was not adopted, the lands would fall into the hands of a few holders, who would dispose of them to the detriment of agriculture, or at a price less than the minimum price of the public lands; and the lands thus disposed of had been selected for their goodness, and were the best in the country. These consequences, as well as others, Mr. A. said, could be, and ought to be, avoided by the passage of the bill.

Mr. COLSTON, of Virginia, said it was admitted there was no moral obligation to pass the bill; it was advocated only in the spirit of liberality to the soldier. To show the expediency of this measure, Mr. C. entered into a course of reasoning to prove the greater obligation and necessity there existed for abolishing the duties on various

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imports, and thus relieving the laboring class from very heavy burdens. Among other objects, he referred particularly to the duty on brown sugar, the consumption of which was nearly twenty millions of pounds; and of coffee, of which was consumed eleven millions of pounds, the latter of which bore a duty of five cents a pound; these and the duty on salt, added together, amounted to many millions which were annually taken out of the pockets of the people. He asked whether it was right in Congress to take any step which would render the continuation of these heavy duties necessary? and referred to the Treasury report to show that our resources were inadequate to spare the funds necessary to carry this bill into effect and leave in the Treasury the sum which it was agreed ought to remain there. He protested against continuing the existing burdens on other classes of the community for the benefit of these soldiers, who had received such enormous bounties during the war—even if the bill would be beneficial to the soldiers, which he doubted; as in his opinion to make the commutation payable in instalments, as was proposed, would place them in worse circumstances than before. On a proper occasion, Mr. C. said, he could show feeling for the soldiers as well as other gentlemen; but in providing for them he could not forget the millions laboring under inconvenience from the taxes which were laid on the necessities of life; and concluded by declaring he could not vote for this bill in any shape whatever.

Mr. BALDWIN, of Pennsylvania, followed in support of the bill. He thought it very incorrect to suppose this bill would favor the speculator; because, if the Government offered nothing for the land, the speculator would be without competition, and the soldier left to his mercy. Mr. B. referred to the history of the lands given by Pennsylvania, by Virginia, and by the United States to the Revolutionary soldiers, to show the great depreciation which would probably take place, without the interference of Government. The Revolutionary bounty lands of Pennsylvania had actually been sold for four cents an acre, and those of Virginia and the United States for about thirty-three dollars per hundred acres. But if the Government were now to offer even one hundred dollars for the present bounty, it would interpose a very great barrier to speculation. And admitting all the alleged ingenuity of speculators, still there would be many cases benefited by the bill; the others would be no worse off than they were before. It would be a sufficient reason with him, Mr. B. said, to support the bill, if he thought he could rescue one-tenth of them from speculation. He adverted to the opinions respecting the validity of powers of attorney, and argued that a power was irrevocable only where there was an interest legally acquired; but in this case there was a special provision of law that the title should not vest in the attorney. It was absurd to suppose Government would make a purchase, and not take from the seller the power of selling to others; and it was a plain rule of

law, that a second purchaser, not knowing of a previous purchase, and having no notice, would be left in complete possession, if the title-papers had been left in the hands of the seller. He contended that the soldier had strong claims; that, moreover, in this case the nation would acquire a valuable estate, and that it was a fair subject of legislation. In reply to the objection that the revenue would not justify this measure, Mr. B. said he held those responsible for supplying the funds who had insisted on diminishing the revenue by repealing the taxes. The House had been told the other day that the Treasury was overflowing; now, that it was empty. He insisted that all fair and laudable appropriations must be made, and the money must be in the Treasury to meet them; it was too late to plead against a proper appropriation, that there was no money. Mr. B. adverted also to the Constitutional objection which had been stated yesterday, and asked if gentlemen could be serious in disputing this power, which had been exercised by the Government for five-and-thirty years.

Mr. LIVERMORE, of New Hampshire, again addressed the Committee at some length in opposition to the bill, chiefly in illustration and defence of the arguments he had advanced yesterday.

Mr. STORRS, of Massachusetts, also spoke again briefly in opposition to the bill. He reviewed a part of Mr. BALDWIN's arguments, some of which he said proved too much. The rule of law which had been stated, he said, was never extended in law or equity to a voluntary purchaser, as the United States would be in this case. By fixing a minimum price, he admitted it might lop off some of the speculators; but until a barrier could be erected to the folly and avarice of the soldier and the rapacity of the speculator the bill would be useless, for the evil would remain untouched.

Mr. HOLMES, of Massachusetts, said he should always rise with pleasure to defend his remarks from any inconsistency with which they might be charged. He did remark, yesterday, that a power of attorney might be executed before the issuing the patent, giving a general authority to convey all lands acquired and to be acquired, and it would authorize the attorney to sell the soldier's land after the patent was drawn; and though this opinion had been denounced as one which would render a judge liable to impeachment, he still was not able to discover how either himself or the opinion could be subject to such animadversion. The gentleman from Pennsylvania (Mr. BALDWIN) conceives, said Mr. H., that he has discovered that the evil which I deprecate is cured in the very case which I stated; that the interest of the attorney being apparent in the title of attorney, such conveyance would be void. If so, I will only observe that he, on the other hand, has stated a case—that of a letter of attorney—where the interest is *not* apparent, in which a conveyance might be made in spite of the constituent, and be valid. I still insist that a conveyance under a power which might be executed would be good. But while he was speaking of that gentleman's remarks, Mr. H. said he

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would notice Mr. BALDWIN's reasoning relative to the repeal of the internal taxes; and said he could not yet perceive how it could be inferred, that if those taxes may be repealed we are bound to make this commutation to the soldier. I deem it *possible*, said Mr. H., that we may not need those taxes, and yet not be authorized to unlock the Treasury for every occasion. Did it follow, he said, that if this tax on the people may be dispensed with, we have money enough to repurchase lands which we do not want? Mr. H. considered the right question to be, whether the nation could afford to purchase back this land, upon the prospect of the advantages which might result to the soldier. He felt no such *squeamishness* as had been ascribed to the opposers of this bill. He did not perceive why there was to be given to the soldier but half as much as the Government asked for the land. If the land is worth more, said Mr. H., let us not speculate upon the soldier. If it is worth no more, we fix a price, and diminish the price of these lands in the market; and, by taking back the greater part of these lands, we diminish the prospect of the settlement, and consequently the value of those lands retained by the soldier or his heirs. In this way the Government itself reduces the value, and puts a weapon in the hands of the speculator, to induce the soldier to sell cheap. The impression is easily made, said Mr. H., that we who oppose this bill are opposed to the interest of the soldier. No, sir; so long as I shall have the opportunity of expressing an opinion on the subject, I shall always support and defend the rights and interests of the defender of my country. But our feelings in this case are misconstrued. The advocates of this bill introduce to us the war-worn veteran: with the eye of the imagination you behold him coming from the way of the wilderness, supported by a crutch and a wooden leg; "pale is his visage, and marked with a scar;" naked and lacerated is his head, where the scalp was torn by the merciless savage. You survey the victim of your country's glory; the tear starts in the eye; the blood freezes in the veins; Champlain, Bridgewater, Erie, and Orleans, rush into the mind; an eternal load of gratitude presses you down; you throw open the strong box, "There, my good fellow, take to your satisfaction, and God Almighty bless you!" He pockets the money. Again you survey this mouldering monument of your gratitude; but upon further examination you find that his leg was not wood, but flesh and blood; his crutch dwindles to a cane; you inspect the scar on his face, and discover that it is a beautiful dimple; you examine the wound where the scalp was torn, and find that he had been only shorn a little too close by his barber; you throw off the soldier's coat, and behold a smart, spruce, sprightly, young speculator, with his pockets crammed full of warrants, and patents, and powers of attorney. That was the man for whom you intended to legislate. This is the scoundrel for whom you have legislated. But the fraud is discovered when it is too late.

Mr. BEECHER, of Ohio, said, the views of the friends of the bill were honorable, as the object was to relieve the soldier and shut the door against speculation; and if this could be accomplished he would concur with them; but he contended that this could not be done, and that there were more important matters of legislation which required all the funds they had a right to demand of the people. The Treasury, he conceived, was not so abundant as had been represented, nor did he think the surplus estimated a large one for this nation. It was proper, therefore, Mr. B. said, to see if the appropriation required could be afforded, and he went into an examination of the anticipated resources, to show that it could not. Mr. B. took, incidentally, a pretty extensive view of the national policy on several subjects, particularly the subject of domestic manufactures, which he believed would sink without further and greater encouragement, and argued that a proper regard for these and other great objects now before the House—the proposed provision for the Revolutionary patriots, the invalid corps, &c., which he enumerated and dwelt on, was incompatible with the sacrifice of millions of money for the object now under consideration; neither did he think the soldiers deserved that additional bounty. But he would be willing to commute with them after other necessary objects had been attended to; though, he argued, that it would be much better to leave soldiers in possession of their land, which they would, in a large proportion, settle and improve, and leave to their children, than, by buying it, give them the means of indulging their bad propensities to excess and ruin.

Mr. JOHNSON, of Kentucky, commenced his remarks, by denying that the principle of this bill was charity, as had been alleged—the subject was one of policy. We get, said he, in the commutation more than a *quid pro quo*, more than an equivalent; for the Government would give one hundred dollars for what was worth three hundred. He called the attention of the Committee to one fact, which was, that the Yazoo speculation itself did not present a scene of greater speculation than would be exhibited if sixteen millions of acres were put into market, in the hands of men so necessitous, as now many of them were, as to be asking charity in the streets; and this land, too, of the best quality. He did not contend that there was a legal obligation to do this act; but there certainly was a moral obligation, whether the soldier be viewed either as vicious or ignorant—he was to be viewed as a starving object, no matter from what cause; and there was a moral obligation to take him out of the hands of speculators. To justify this bill, Mr. J. referred to the former practice of the Government, and to the recommendation of the late President of the United States, to whom Mr. J. paid the tribute of his highest respect for his virtues, his talents, and his long and faithful services. The right to pass this bill was clear; and shall we, said he, let the time forever pass unimproved, because there be no legal obligation for it?



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He maintained, that the House could suppress speculation, and that this bill would do it. He would say, that they should take the land for less than its value, should receive no more than the commutation price, and he would do anything short of violating the Constitution, to enforce it. Mr. J. dwelt warmly on this point, and urged the Committee not to let the moment for this measure pass away forever. As for charity, he knew it was out of the question. There had been none extended to the gallant officer, and he expected none for the soldier, unless he came here and held up his bleeding hand or his mutilated stump, to beg for it. On the plea of charity, therefore, he did not support the passage of the bill, but it was on the score of sound policy, and that alone.

Mr. CLAY (Speaker) again rose, partly in reply to the opponents of the bill, and partly on its details. In ninety-nine cases in a hundred, he said, the patentees who intended to sell their land had probably already done so. There was another difference between the patentee and those who were yet to receive their land—the former knows the value of his land, while the others do not; one will take advantage of the commutation, the others will not. Thus would arise a difference in the provision which should be made. In discussing the details of the bill, Mr. C. said, he had no doubt it was in the power of the Government to compel the purchasers to give in notice of their titles, or make any other regulation of property for its registration or security. He denied that the Government would be, in this case, a voluntary purchaser, in the sense suggested; it was a repurchase of estate, and a case in which the subsequent purchaser would hold without notice from the previous purchaser. Mr. C. read the act granting the bounty, to show that it was impossible for the soldier to alienate his right to the land before obtaining a patent; and said, he should be glad to find some of the speculators, some of the knowing ones, taken in, who had endeavored to deprive the soldier of his hard-earned property. By fixing a value on this land, Mr. C. said, it would immediately rise in market; and, if the commutation was settled at one hundred dollars, he did not believe they would have to pay fifty thousand dollars annually; and so fully was he convinced of the expediency of this measure, he declared his belief, that if Government had to borrow the money at six per cent. to make the purchase, it would still be a great gain, besides the consideration of alleviating the soldier. Mr. C. remarked, in reference to the just censures which had been denounced against speculation, that he did not attach speculation, in its odious sense, to many of the purchasers—there were many purchases fairly made. It was to those who dogged the soldier to the grogshops, and who misrepresented to him the value of his land, that he attached the epithet in its execrable sense—it was against such that he would extend the arm of the Government. Mr. C. said, this property had been parted with at a moment of great pressure and public need; and

it was incumbent on the Government, now that it was able to do so, to take it back; when, at the same time, by doing so, you render a service to yourself and to the party from whom it was received.

Mr. CLAY then, for the reasons already stated in the proceedings of this day, offered a substitute for the bill, which he had prepared, (Mr. HOLMES having for that purpose first withdrawn his motion to strike out the first section;) when the Committee of the Whole rose, reported progress, and obtained leave to sit again.

#### THURSDAY, December 18.

Mr. SHAW presented a petition of sundry manufacturers of cotton and woollen goods, in Berkshire county, in the State of Massachusetts, praying that further measures may be adopted for the security and encouragement of domestic manufactures.—Referred to the Committee on Commerce and Manufactures.

Mr. POINDEXTER submitted the following proposition of amendment to the rules and orders of the House; which was read, and ordered to lie on the table:

*Resolved*, That the standing rules and orders of the House be amended, in this, to wit: that the Committee on Private Land Claims shall consist of seven members.

Mr. ROBERTSON, of Louisiana, reported a bill making provision for the establishment of additional land offices in the Territory of Missouri; which was read twice, and committed.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, to whom were referred sundry reports of facts, in particular cases, submitted for his decision, by the Commissioner of Claims, for lost property, &c., made reports unfavorable to the cases of John Manning, for Caroline Fenwick; of the Levy Court of Calvert county; of John I. Patison; and of John Ireland; which reports were severally referred to a Committee of the Whole.

On motion of Mr. RICH, of Vermont, a report of a similar nature, made on another case yesterday, was reconsidered, and referred to the same Committee.

Mr. LITTLE, of Maryland, from the Committee of Accounts, presented a report, as required by the order of the House, on the manner in which the printing of the House is executed, exculpating equally the Clerk and Contractor from blame. After some conversation, this report was laid on the table.

Mr. TAYLOR, of New York, submitted for consideration the following resolution:

*Resolved*, That the Secretary for the Department of War be instructed to report to this House a list of those persons who have been added to the pension list since the report made to the House of Representatives, from that Department, bearing date May 28, 1813, designating the number of each pensioner as he stands on the roll of the respective districts or agencies, his rank or quality, and the amount of annual stipend at present allowed to each person.

Mr. T. intimated his reasons for requiring this information. A proposition was now before the House for giving a bounty in land to disbanded officers. It was fit that the House should know how many of those officers already stand on the pension list of the United States. A proposition was before the House, also, to extend for five years the pensions now allowed to sufferers by the late war. Mr. T. wished to know how many were those pensioners, and to what amount.

On motion of Mr. MERCER, of Virginia,  
*Resolved*, That the Secretary of War be directed to report to this House a list of all the officers who held brevet rank in the Army of the United States, at the close of the late war, noting their respective lineal rank at the time at which their brevet rank was conferred on them; together with a list of all the officers of the present Army who now hold a brevet higher than their lineal rank, and of these the number and grade of all such officers as actually receive, in virtue of their brevet rank, greater pay or emolument than they would be otherwise entitled to by law.

On motion of Mr. T. M. NELSON, of Virginia, it was

*Resolved*, That a committee be appointed to inquire into the expediency of providing by law for extinguishing the Indian title to certain lands south of Green river, in the State of Kentucky, which were set apart by the State of Virginia for satisfying the claims of certain Revolutionary officers to military bounty land, or of making such other provision, in relation thereto, as justice may recommend.

*Resolved*, That the same committee also inquire into the expediency of providing by law for satisfying the claims of those Revolutionary officers who were entitled, in virtue of sundry resolutions and acts of the General Assembly of Virginia, to military bounty land, to be laid off on the northwest side of the river Ohio, between the rivers Miami and Scioto, (now part of the State of Ohio,) which claims remain unprovided for, in consequence of the quantity of arable land having proved insufficient therefor.

[This motion produced some debate. In the shape in which it was first offered by the mover, it proposed to declare the measure therein proposed to be "expedient." To this it was objected, that it was expedient to investigate before deciding; and the mover consented to put his motion in the shape of an inquiry into the expediency of the proposed measure, and in that form the motion was finally adopted. Objection was made to it in its new shape by Mr. PITKIN of Connecticut, and Mr. POINDEXTER of Mississippi, (and doubts were expressed by Mr. DESHA of Kentucky,) on the ground of a defect of power in the House to pass an act for extinguishing Indian titles; which was of itself an Executive, and not a Legislative act. To which objections, Mr. T. M. NELSON, Mr. BARBOUR, Mr. GARNETT, and Mr. MERCER of Virginia, replied, that inquiry only was proposed, and not the expression of any opinion; that the inquiry would embrace as well the powers of Congress as the expediency of the measure—both of which, they contended, were unquestionable.]

#### COMMUTATION OF SOLDIERS' PAY.

The House having again resolved itself into a Committee of the Whole, on the bill for the commutation of soldiers' pay, the question was taken on agreeing to the amendment of detail, (being a substitute for the bill before the Committee,) proposed by Mr. CLAY; and decided affirmatively—96 gentlemen rising in its favor.

The amendment of Mr. CLAY being then open for amendment, was read over for that purpose.

Mr. T. M. NELSON having moved to fill the blank for the amount of commutation with \$160, (or one dollar per acre,) the question was decided in the negative, by a majority of about 20 votes.

Mr. CLAIBORNE, of Tennessee, on the principle that, if the bill passed—to which, however, he was altogether opposed—the Government ought not to speculate on the soldier, by giving him less than its own price for the same article, moved to fill the blank with \$320, (or two dollars per acre.) Negatively, ayes 25.

Mr. COBB, of Georgia, having moved to fill the blank with \$120 (or seventy-five cents per acre,) it was decided in the negative, ayes 48.

Mr. HARRISON, of Ohio, moved \$130, and Mr. LITTLE, of Maryland, \$150; both of which were negatively.

Mr. CLAY then moved to fill the blank with the sum originally proposed by him, of \$100, though he confessed he should have preferred one dollar per acre. He was under the impression, however, that the bill had a better chance to pass in this shape than with a higher sum, and it would yet produce much good.

On this question the House divided thus: For the motion 75, against it 78.

A second count being called, the vote stood thus: For the motion 84, against it 67.

The amount of commutation was therefore decided to stand at \$100 for 160 acres.

The Committee proceeded in the consideration of the bill, and made thereto a variety of amendments, on which much desultory debate took place.

The question being stated, "Shall the Committee rise and report the bill?" Mr. WHITMAN, of Massachusetts, assigned the reasons which would induce him to oppose the bill.

On motion of Mr. SPENCER, of New York, the Committee rose, reported progress, and obtained leave to sit again.

FRIDAY, December 19.

Another member, to wit: from Delaware, WILLARD HALL, appeared, produced his credentials, was qualified, and took his seat.

Mr. MERCER presented a petition of the representatives of the yearly meeting of the Religious Society of Friends, held in Baltimore, praying that further provisions may be made for the security of persons of color, who are free or entitled to freedom, at a given period, in the traffic of slaves from the Middle to the Southern States, which was referred to a select committee; and Messrs. MERCER, COMSTOCK, DARLINGTON, TER-

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RIIL, and EDWARDS, were appointed the committee.

Mr. RHEA presented a petition of the General Assembly of the State of Tennessee, praying that the titles to lands in that State, derived from the State of North Carolina, previous to the cession of Tennessee to the United States, may be confirmed.—Referred to the committee appointed yesterday, on a resolution submitted by Mr. THOMAS M. NELSON, concerning the military bounty lands granted by the State of Virginia.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, reported a bill in addition to the act, entitled "An act for the relief of John Thompson," which was read twice, and committed.

Mr. TAYLOR, from the Committee of Elections, made a report on the certificates and other credentials of members, which was read and ordered to lie on the table.

The House took up the proposition submitted yesterday by Mr. POINDEXTER, to amend the rules and orders of the House, and the same was concurred in; and Mr. POINDEXTER and Mr. CLAIBORNE were then added to the Committee on Private Land Claims, conformable to the said amendment.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of the heirs of Landon Carter," in which they ask the concurrence of this House.

On motion of Mr. HARRISON, of Ohio, the following rule was adopted:

"The Speaker shall have power to admit persons to seats in the hall, during the sitting of the House, who belong to such Legislatures of foreign Governments as are in amity with the United States."

[There was some little debate on a proposition of Mr. H. NELSON, of Virginia, to amend this motion, so as to authorize the Speaker to admit on the floor any Representatives of the South American Provinces—that they might stand on the same footing in this respect as foreign Ministers. After the debate (or rather, conversation) referred to, in the course of which Mr. HARRISON protested against the introduction of extraneous matter into his proposition, the motion of Mr. NELSON was negatived.]

On motion of Mr. HARRISON, the order of the day for the House to resolve itself into a Committee of the Whole, on the report of the committee appointed on so much of the President's Message, as relates to roads, canals, and seminaries of learning, was postponed until the first Monday in January next.

On motion of Mr. MERRILL, the Secretary of War was instructed to furnish a statement, showing the names of the several persons to whom land warrants have issued, and extra pay been allowed, subsequent to the 3d of March, 1817, under the act, entitled "An act granting bounty in lands, and extra pay to certain Canadian volunteers," and the acts supplementary thereto, together with the names of the agents or attorneys, to whom said land warrants were delivered, and

the money paid, particularly noting such, if any, as were, or are, connected with the public offices; and also to state, whether any, and if any, what information he may have received, relative to impositions practised on claimants, by persons pretending to be agents, authorized by the Government.

Mr. WENDOVER submitted the following, which was read and ordered to lie on the table for one day:

*Resolved*, That the standing rules of this House be so amended that not more than — bills shall be committed to the same Committee of the whole House; and that such bills shall be analogous in their nature; which analogy shall be determined by the Speaker.

On motion of Mr. CAMPBELL, a committee was appointed to inquire into the expediency of allowing further time for the officers and soldiers of the Virginia line, on Continental establishment, their heirs or assigns, entitled to bounty lands within the tract reserved by the State of Virginia, between the little Miami and Sciota rivers, to complete their locations, with leave to report by bill or otherwise; and Messrs. CAMPBELL, GARNETT, and SMYTH, of Virginia, were appointed the said committee.

On motion of Mr. HERBERT, the Secretary of the Treasury was directed to lay before this House a statement of the amount of receipts into the Treasury from imposts, internal taxes, and other sources of revenue within the District of Columbia, specifying the sum received in each year, since the assumption of the jurisdiction by Congress in 1801; also a statement of the amount of registered tonnage, employed in the carriage of goods, wares, and merchandise, in the foreign and coasting trade of the District.

On motion of Mr. SILSBEE, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of so amending the laws making appropriations for the establishment of custom-houses, which are now confined to principal districts, as to authorize the application of such appropriations as have already been, or may hereafter be, made to any district within the United States, where the Secretary of the Treasury shall think such establishments will best promote the public interest.

The House having again resolved itself into a Committee on the bill for the commutation of soldiers' bounty lands, some further discussion on amendments to it took place, in which Messrs. FORSYTH, POINDEXTER, CLAY, and ROBERTSON, of Kentucky, bore part; when the Committee rose, and reported the amendments to the bill; which were ordered to lie on the table, and to be printed for the more easily understanding thereof by the members before called upon to give a final vote on them.

The bill from the Senate, entitled "An act for the relief of the heirs of Landon Carter," was read twice, and committed.

The bill for the relief of Noah Miller, passed through a Committee of the Whole, and was ordered to be engrossed for a third reading.

## SURVIVING REVOLUTIONARY SOLDIERS.

The House having resolved itself into a Committee of the Whole on the bill concerning the surviving soldiers of the Revolutionary war,

Mr. LINN, of New Jersey, moved to strike out the word "war" in the bill, which makes the provisions of the bill applicable to all persons who served for any time in the Revolutionary war, and to insert, in lieu thereof, "Army of the United States," so as to confine the bill to the surviving officers and soldiers of the Revolutionary army. As the bill at present stood, Mr. L. said nearly every person in the United States of sufficient age, and in a state of indigence, would be embraced in it; for few of them but had been in some grade, and at some time or other, in the service.

At the suggestion of Mr. BLOOMFIELD, of New Jersey, this motion was withdrawn for the present.

Mr. BLOOMFIELD delivered his impressions in respect to the operation and scope of this bill. He made a statement to show what were his views of the probable number of applicants under this bill, if it should pass; and the annual amount of the expenditure it would occasion. The Jersey brigade, he said, consisted, during the war, of four regiments; there were forty officers to each regiment, making in the whole one hundred and sixty. On the 4th of July last, as he was enabled from personal knowledge to state, there were living but twenty of those officers, being precisely one-eighth of the whole number. Taking this fact for his guide, as the proportion of survivors, he said, there were in the Continental army sixty-eight battalions, of whom about seventeen thousand men were killed or died in service; and at the close of the war, it was a well known fact, the battalions did not average more in each than two hundred and fifty; making in the whole seventeen thousand men—of whom, say about one-tenth (being generally not of as regular habits as the officers) were living; that is, seventeen thousand. Estimating the proportion of applicants for the pension at one-sixth, would make three hundred and forty. The full pay of the Revolution, six and two-thirds dollars per month to each, of these, would amount to \$2,295 per month. Of the officers, the whole original number he estimated at two thousand seven hundred and twenty; of whom, supposing one-eighth to have survived, as in the instance of the Jersey brigade, there were now living about one thousand three hundred and forty. Of this number, he supposed one-tenth of the whole would become applicants for pensions—say thirty-four; at the full subaltern Revolutionary pay of seventeen dollars per month, their pensions would amount to \$578 per month. The monthly pension for both officers and soldiers, on this estimate, would be \$2,873, and the annual amount only \$34,376—an amount which must daily decrease. But, instead of full pay pension, the bill, as it now stood, provided only for half pay. Would this House be satisfied, Mr. B. asked, with giving to these men, borne down with age and service, a pension of three and a

third dollars a month during the small remainder of their lives, whilst they had given the soldiers of the late war (no disparagement to them) eight dollars per month? He hoped not; and therefore moved to amend the bill so as that the amount of pension should be for every officer seventeen dollars per month, and for every soldier eight.

Mr. TUCKER, of Virginia, moved to amend the amendment, so as to make the pensions twenty and eight.

The amendment to the amendment was agreed to without objection, after a few observations from Mr. COMSTOCK.

Mr. HOLMES, of Massachusetts, suggested an amendment to the bill, going to make its phraseology more precise in regard to those to whom it should apply; because, as at present worded, it would entitle to a pension not only all who were in need of it, but those also who, though in affluence, were disabled by age or infirmity from procuring subsistence by manual labor.

Between Mr. COLSTON, of Virginia, and Mr. ORR, of Massachusetts, an amendment was moved to the bill, that every officer or soldier, who served in any manner during the Revolutionary war, and now surviving, should be entitled to the pension abovementioned—the one to twenty, the other to eight dollars per month.

On this motion a desultory debate arose, in which the following sentiments were expressed by the gentlemen to whose names they are subjoined.

Mr. COLSTON objected to the qualification of indigence, required by the bill, to entitle the surviving Revolutionary officer and soldier to the benefit of its provision. Let not the soldier, said he, by whose bravery and sufferings we are entitled to hold seats on this floor, be required to expose his poverty to the world, and exhibit the proof of it, to entitle him to relief. The incorporation of such a provision in the bill he considered as degrading to the House. In what light was this bill to be regarded? Was it to be considered as an act of justice? It was less than justice, having suffered these meritorious men to have remained for years unrewarded, to offer to the poor remains of them the right to a pension during life, clogged with such conditions. As an act of beneficence, he should be ashamed to hear it supported on this floor. On this subject, Mr. C. said he hoped a liberal spirit would prevail; and that, for the short remnant of their lives a pension would be given to all who survived of the soldiers of the Revolution.

Mr. ORR accorded fully in the sentiment of Mr. COLSTON. On the first perusal of the bill, he was struck with the thought, what must be the feelings of the high-minded officer of the Revolution, compelled to produce in open court the proofs of his own indigence; and he hoped the House would amend that part of the bill.

Mr. HARRISON, of Ohio, avowed his high respect for the survivors of the Revolution, and his sincere desire to contribute to their comfort in old age. But, he said, the amendment now proposed went too far, because it would embrace every

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one who had shouldered a musket, even for an hour, during the Revolutionary war. As to those who had seen serious service, so far from having claim to the meed of liberality, the amendment would be but a measure of justice, as no bounty had been accorded to them. Persons, however, covered with scars and borne down by length of service in those days, ought not be confounded with those who had been called out for an hour or a day. Some of the militia, he thought, were as well entitled to this pension as any regulars, of whom the Jersey militia might be particularly mentioned. But he wished to have the operation of the bill limited to such as should have served six months or more.

Mr. SOUTHARD, of New Jersey, did not like the word "shall," as applied to the receipt of pensions: "shall receive pensions," he said was making the bill compulsory. Some of the survivors, he said were wealthy; towards them he felt gratitude for the services they had rendered their country; but he would not extend to them the same measure as to the indigent and the afflicted. Some of those who survive, the war itself had made rich—the wealth of some of them was almost unbounded, and, in some cases, he was sorry to say, it was acquired by speculating on the soldiers' claims. Such characters he was not in favor of putting on the pension list of the United States. Under the amendment proposed, said Mr. S., there are many gentlemen in my view, who would become pensioners—perhaps myself among them, if I chose to be compelled to take one. There were many men on this floor, he believed, who deserved the gratitude of the country, but who would not accept a pension at its hands.

Mr. SMITH, of Maryland, said, that, in draughting the bill, the select committee had conformed it pretty much to the words of the message; and he believed it was their desire to confine it to the survivors of the army of the Revolution. Except one indeed, the committee who reported the bill was composed entirely of officers of the Revolution, and would have felt a delicacy in introducing a bill on the very liberal principles which some gentlemen had advocated. But if this House chose to extend the provisions of the bill to all survivors, he should not, for one, object. He might not, under the rules of the House, be permitted, as one interested, to vote on the question; nor should he vote on such a question—nor would he take the pension. But he should not object to the amendment, since there seemed to be a pretty general sentiment prevailing, that, if the House chose to be liberal, it should be to all alike. If he thought, however, that such an amendment would endanger the fate of the bill, he should certainly adhere to the bill as it originally stood.

Mr. BLOOMFIELD opposed the amendment, as it might prejudice the fate of the bill, the provisions of which he thought were already sufficiently comprehensive. If the Message of the President had contained not a word on the subject, he should have considered it equally his duty to agitate this question. He concluded a number of other observations, opposing a proposed

postponement, by saying, he hoped to have the satisfaction of seeing this bill pass the House before the holidays.

No question was taken on the amendment, when the Committee agreed to rise and report progress, and obtained leave to sit again; and the House adjourned to Monday.

#### MONDAY, December 22.

Another member to wit: from Pennsylvania, ALEXANDER OGLE, appeared, produced his credentials, was qualified, and took his seat.

Mr. MASON, of Massachusetts, presented petitions from manufacturers of cotton and woollen goods, in Waltham, Dedham, Brunswick, Lancaster, and West Boylston, in the State of Massachusetts, praying that further aid and encouragement, may be granted to domestic manufactures.

Mr. STORRS presented a similar petition from sundry inhabitants of Oneida county, in the State of New York.

Mr. WESTERLO, Mr. SOUTHARD, Mr. HALL, of Delaware, and Mr. BASSETT, respectively presented petitions from sundry manufacturers of iron, praying that additional duties may be imposed on pig iron, bar iron, and castings, imported into the United States.—Referred to the Committee of Commerce and Manufactures.

Mr. HOPKINSON presented a petition of the surviving officers of the Pennsylvania line of the Revolutionary Army, praying that the whole amount of the half pay, secured to the officers of the said army, by a resolution of Congress, may be granted to them, with a deduction of the commutation thereof, for five years full pay.—Referred to the committee appointed on so much of the President's Message, as relates to the surviving officers and soldiers of the Revolutionary Army.

Mr. HOPKINSON, also presented a petition of the Chamber of Commerce, of the city of Philadelphia, praying for the establishment of an uniform system of bankruptcy.—Referred to the Committee of the Whole on the bill for that purpose.

Mr. COBB, from the committee appointed to inquire into the claims of certain detachments of the militia of Georgia, for services performed in the years 1793, and 1794, made a detailed report, which was read; when Mr. C. reported a bill for the payment of certain militia claims, of the State of Georgia, which was read twice, and committed to a Committee of the Whole.

On motion by Mr. McCox, of Virginia,

*Resolved*, That the Committee on Public Lands be instructed to inquire into the expediency of increasing the price at which the public land shall be sold hereafter.

On this question there was a division; the resolution was agreed to by a majority of twenty or thirty votes.

On motion by Mr. BASSETT, of Virginia,

*Resolved*, That the Secretary of the Navy be required to communicate to this House the measure taken, if any, to give effect to the act passed

on the 26th February, 1811, for the establishment of Navy hospitals; if nothing has been done, to show the cause why the statute has been neglected, and whether it be necessary to repeal the same.

On motion of Mr. PORTER, of New York, the Committee on the Judiciary were instructed to inquire into the expediency of increasing by law the compensation of the Marshal of the northern district of the State of New York.

A letter was received from the Secretary of State, in reply to a resolution of this House of the 16th, requesting copies of certain accounts of M. M. Noah, stating, that the accounts therein referred to had been transmitted to this House on the 8th instant.

On motion of Mr. BASSETT, the Committee on the Judiciary were instructed to inquire whether the moneys deposited, from time to time, in the district court of the United States for the district of New York, have been faithfully applied, and that said committee be invested with power to send for persons and papers.

The bill for the relief of Noah Miller was read a third time, and passed.

#### EXPATRIATION.

Mr. ROBERTSON, of Louisiana, from the select committee to whom the subject had been referred, reported a bill providing the manner in which the right of citizenship may be relinquished.

[The bill proposes to provide that when any citizen, by application in writing to the district court of any district of the United States, in open court, and there to be recorded, shall declare that he relinquishes the character of a citizen, and means to depart out of the United States, he shall be thenceforth considered as having exercised the right of expatriation, and as being no longer a citizen of the United States; that such person shall be held as an alien forever after, and shall not resume the rights of citizenship without going through the same process of naturalization as other citizens.]

#### AMERICAN MANUFACTURES.

Mr. JOHNSON, of Kentucky, offered the following resolution:

*Resolved*, That the Committee on Commerce and Manufactures be instructed to inquire into the expediency of providing by law for clothing the Army and Navy of the United States exclusively in American manufactures.

In offering this motion, Mr. J. said it would not be proper for him to detail the facts, or advance the reasoning which led him to the conclusion that the measure he proposed to inquire into was expedient. But he would say that he should not have thought of introducing this resolution, if he did not believe the cloth of American manufacture could be obtained at a reasonable rate. One of the objections to making a provision by law such as was contemplated, and the only one which appeared to him to have any force, was that, by destroying the competition between domestic and foreign articles, the Government would be obliged to pay higher for the same articles than they now do; but it would be seen by gentlemen that such

augmentation could only be momentary; and, Mr. J. said, the competition of the manufacturers among themselves would be so great, he had no doubt, as to give the article to the Government at the lowest possible price. The practice of the War Department, already, was to give a preference to the domestic fabric, but that preference was given with reference to the cost of the article; a system which produced not only uncertainty, because of the fluctuating state of the foreign market, but uncertainty, consequently, to the calculations of the manufacturer. In relation to the Navy, Mr. J. said, he did not know that his project was practicable; if it was, it would be necessary perhaps to give a discretionary power on this head to the commanders, when on foreign stations. But he hoped no objection would be made to an inquiry on the subject, and that the committee would favor the House with an early report.

The motion was agreed to.

#### ARMY AND FORTIFICATIONS.

The following Message was received from the PRESIDENT of the UNITED STATES:

*To the House of Representatives of the United States:*

In compliance with a resolution of the House of Representatives, of the 11th of this month, requesting to be informed of the present strength of the Army of the United States, its distribution among the several military posts, which it is designed to protect, and its competency to preserve and defend the fortifications among which it is distributed, and to aid in constructing such other military works, if any, as it may be deemed proper to erect, for the more effectual security of the United States, and of the Territories thereof; I now transmit a report from the Secretary of War, which contains the information desired.

JAMES MONROE.

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In compliance with the resolution of the House of Representatives, requesting the President of the United States "to cause to be laid before the House of Representatives a return of the present strength of the Army of the United States, with the distribution thereof among the several military posts which it is designed to protect, together with any information which he may be able to afford respecting the competency of such force to preserve and defend the fortifications, amongst which it is distributed, and to aid in constructing, and to defend such other military works, if any, as it may be in the contemplation of the Government to erect, for the more effectual security of the United States, and of the several Territories thereof;" the Secretary of War has the honor to make a return of the present strength of the Army of the United States, with the distribution thereof among the several military posts.

The Military Establishment, as it now stands, is sufficiently extensive to keep the fortifications in a state of preservation, but is wholly inadequate to defend them against a regular attack by a force of sufficient strength and skill. To garrison the forts on the maritime frontier alone would require, according to the best information and estimates of this Department, more than thrice our present number, to repel the assaults of such a force. The portion of the army stationed in the neighborhood of fortifications now erecting, are employed to aid in constructing them; but



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only an inconsiderable number has yet been so engaged, owing to its dispersed situation. Though not immediately comprehended in the resolution of the House, it is but justice to the army to observe, that it has been employed to a considerable extent, the last year, in the construction of roads, arsenals, and other public works connected with the defence of the country.

The existing fortifications are thought to be wholly insufficient in the event of a future war. As the declaration of war is the act of the whole community, justice, honor, and humanity require that every portion of the country should, as far as possible, be protected against its ravages. This is among the most sacred duties of the Government; and, impressed with its importance, a board of the most skillful officers in our service has been constituted, to examine the whole line of our frontier, and to determine on the position and extent of works that may be necessary to the defence of the country. This great work is not yet completed; and in its present state it is impossible to speak with any precision as to the extent to which our fortifications ought to be carried. The soldiers will be able to render important aid in constructing the works that may be determined on, but, "from the composition of the army," they can only come in aid of regular and professed workmen.

J. C. CALHOUN.

[The detailed and particular statement accompanying the report from the Adjutant General's office, states the actual number of the present Peace Establishment at 8,221, including officers.]

The report was ordered to lie on the table.

#### SURVIVING REVOLUTIONARY SOLDIERS.

The remainder of this day's sitting was spent in Committee of the Whole, on the bill concerning the surviving officers and soldiers of the Revolution. There was much debate, occasionally eloquent, but generally desultory, on amendments proposed to the bill, but involving also its principles.

Mr. STROTHER said, that he had not intended to trouble the House with any observations upon the passage of this bill; but he could not remain silent, when, by the proposed amendment, a feature was endeavored to be incorporated into it, which, to him, appeared to narrow the operation of the bill, and to strip it, at least, of one moiety of its merit. Is it just, or is it politic, he asked, to discriminate between the Continental line and the State troops, and the militia? What is the professed object of the bill? To provide for the indigent soldiers of the Revolution. What is the feeling or sentiment from which it springs? He said he had hailed the introduction of this bill as an auspicious circumstance—as a gratifying evidence of the re-connexion of public feeling with the principles of the Revolution. If gratitude be the feeling or sentiment from which this bill springs, by what principle would you limit and confine it to the Continental line? Is the reason to be found in the bright page of your Revolutionary history, or in what celebrated system of ethics will you find its justification? If, said he, you look to the magnitude of the boon conferred, how awful is the debt of gratitude! Mark this mighty empire arising into existence from peril

and from blood, and then sit down, if you can, and, by cool arithmetical calculation, draw a line of discrimination between those who gratuitously bestowed upon you that freedom and that prosperity you now enjoy. But why, said he, shall the militia be excluded the nation's bounty? Did they not assist in the conflict? Did they not, half armed and undisciplined, meet the invading foe, and assist in repelling him from your shores? The battle ground of Guilford speaks their eulogium; Bunker's Hill is the imperishable monument of their valor. If motive gives character to action, the indigent militiaman has the highest claim to the interposition of this Government. That love of liberty and country, which elevates man to his highest destiny, was the sole emulating principle which gave courage to their hearts, and strength to their arms, in the hour of battle. Here were motives as pure, and achievements as brilliant, as illustrate the proudest nations of antiquity. Sir, said Mr. S., it is with the deepest regret that I am driven to the comparison. I would ask that hand to perish, that would snatch one leaf from that laurel that adorns the brow of the Revolutionary army; but it must be admitted that the Continental army, had a mixed and compound motive; the holy flame that then electrified the country no doubt burnt bright in their bosoms; but they were surrounded by all the pride, pomp, and circumstance of glorious war; ambition had his prize in view, and avarice his reward. But why shall this invidious distinction be drawn in our legislative provisions? Let national pride, let national gratitude, obliterate it forever. Length of service, said he, is a criterion of merit equally fallacious and unjust. With the best possible disposition to render services, unfavorable circumstances may doom one soldier to waste his energies in inglorious ease, whilst others, favored by more auspicious fortune, may, within a comparatively short period, have frequently been led to battle, and, by their personal prowess, have contributed to the emancipation of their country. Within the experience of many members of this Committee, these facts have occurred, and they are within the observation of all; shall we, then, he asked, with these facts ringing in our ears, and occurring recently before our eyes, admit a principle so deceptive and so inequitable? Sir, said Mr. S., I had viewed this bill in a different light; I had considered it emanating from feelings of mingled respect and sympathy; as a homage paid to that stoic fortitude and heroic courage that reclaimed a hemisphere from slavery; as a tribute of respect to sages who conceived and framed a Government, embracing in its gigantic arms an entire continent, protecting its inhabitants in the enjoyment of freedom and happiness. This House, said he, cannot more appropriately evince these feelings than by rejecting the proposed amendment. All who contributed to build up our magnificent political fabric, should be embraced in the wide circle of gratitude. Permit not him, who, in the pride of vigor and of youth, wasted his health and shed his blood in freedom's cause, with desponding heart

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and palsied limbs to totter from door to door, bowing his yet untamed soul to melt the frozen bosom of reluctant charity ! No, sir, he said, the nation should seek out these noble ruins of that splendid period, and spread its charity around to warm and cheer them into a forgetfulness of their wrongs and their sorrows, in the evening of their days. Mr. S. concluded by remarking, that he flattered himself the amendment would not obtain. The object of the bill seems to connect gratitude and charity, service and distress. The beams of national charity should not be concentrated on the head of the enlisted soldier; the beams of national beneficence should equally visit the domicile of the militiaman, and convey comfort to his fireside.

MESSRS. BLOOMFIELD, WALKER, GARNETT, HARRISON, COMSTOCK, PALMER, LIVERMORE, TRIMBLE, and RHEA, successively joined in the debate.

The principal question before the Committee of the Whole was on the amendment proposed by General HARRISON; which was to strike out the two first sections of the present bill, and insert, in lieu thereof, other sections, providing that every Revolutionary officer and soldier, who formed a part of the Military Establishment of the United States at the close of the war, or who previously thereto served not less than three years, and received an honorable discharge, shall receive a pension; if an officer, of half pay; if a private, of five dollars per month; but no officer's pension to exceed the half pay of a lieutenant colonel, &c.

The question on this motion was not taken before the Committee rose, reported progress, and obtained leave to sit again.

TUESDAY, December 23.

Mr. SERGEANT presented a petition of the Board of Managers of the American Bible Society, praying that all letters and packets sent to, or from their president, secretaries, and treasurer, on the business of the Society, may be sent free of postage, under such regulations as Congress may think proper to impose; which was referred to a select committee; and Mr. SERGEANT, Mr. BRYAN, Mr. MERCER, Mr. TAYLOR, and Mr. MORTON, were appointed the committee.

Mr. SERGEANT also presented a petition of the Board of Managers of the Philadelphia Bible Society, praying that the duties imposed on stereotype plates, already imported into the United States, and designed for the printing of the Holy Scriptures, may be remitted; that all duties incurred on the importation of the said Scriptures, printed in foreign languages for gratuitous distribution, may also be remitted, and that inspired writings in foreign languages, hereafter imported, may be imported free of duty.—Referred to the committee last appointed.

On motion of Mr. FLOYD, a committee was appointed to inquire into the expediency of extending the privilege of franking to one person in each of the States and Territories of the United States, who shall be appointed by the Governor or Le-

gislature thereof, for the purpose of distributing the vaccine matter, within such State or Territory; and that they have leave to report by bill or otherwise; and Mr. FLOYD, Mr. ABBOTT, and Mr. SEYBERT, were appointed the committee.

Mr. ROBERTSON made a report on the letter from the Secretary of the Treasury, concerning the islands in the rivers passing through the public lands; which was read, and the resolution therein contained was concurred in by the House, as follows:

*Resolved*, That it is inexpedient, in this particular, to alter the law regulating the surveys of the public lands.

On motion of Mr. HOLMES, of Massachusetts, the Committee on the Judiciary were instructed to inquire into the expediency of providing, by law, for appointing justices or conservators of the peace, or other magistrates, authorized to enforce the execution of the laws of the United States.

On motion of Mr. HERRICK, the Committee on the Judiciary were instructed to inquire into the expediency of providing, by law, for increasing the compensation paid to jurors and witnesses, summoned to attend the several courts of the United States.

#### JUDICIAL RECORDS.

Mr. HUGH NELSON from the Committee on the Judiciary, who were instructed to inquire whether any, and if any, what legal provisions are necessary to prescribe the effect which the public acts, records, and judicial proceedings of each State, shall have in the courts of every other State, made a report thereon, which was read; when, Mr. N. reported a bill to prescribe the effect which certain records and judicial proceedings of the courts of each State, shall have in every other State of the United States; which was read twice, and committed to a Committee of the Whole.

The report is as follows:

That, upon inquiry, it is ascertained that various and contradictory decisions have been made upon the construction of the act of Congress entitled "An act to prescribe the mode in which the public acts, records, and judicial proceedings, in each State, shall be authenticated so as to take effect in every other State," which was passed the 26th May, 1790. In some of the courts it has been decided that the records of judgments coming from other States authenticated in the manner prescribed in the act are upon the same footing as foreign judgments; that they are merely *prima facie* evidence of the debt or demand, which evidence may be inquired into and rebutted by extraneous proof; and, finally, that the original cause of action may be again investigated. In other courts, it has been decided that such records are conclusive evidence of the debt, and cannot be impeached but upon some ground or fact occurring after the rendition of the judgment.

Your committee are of opinion that Congress has not yet executed the power given by the Constitution of prescribing the effect which such records shall have. At all events, so much doubt rests upon the question, that, in the opinion of your committee, it is highly expedient that Congress should interpose by a law which will produce uniformity in the decisions throughout the Union, and which, by the establishment of a fixed

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and certain rule, will give confidence and security to commercial men in every part of the United States. They have therefore prepared a bill, which is herewith presented.

### INDEMNITY FOR SLAVES.

Mr. WILLIAMS, from the Committee of Claims, to whom was referred the report of the Secretary of State on the petitions of Antoine Bienvenu, Peter Lacoste, and Jacques Villeré, citizens of Louisiana, made to the House the following report; which was concurred in by the House:

That the petitions and accompanying documents were, by a resolution of the 29th of January last, referred to the Secretary of State; that the Secretary of State has submitted to the House a report, (hereto annexed,) which the committee beg leave to adopt as a part of their report.

The Committee of Claims would at any time undertake with great diffidence to discuss principles of national law, or settle questions of conventional right. But at this time it would, in their opinion, be peculiarly in delicate, if not premature, for Congress to adopt any measure whatever. It would seem to them more correct that the subject of the petitions should await the result of a negotiation now pending between the Governments of the United States and Great Britain. They therefore recommend to the House the following resolution:

*Resolved*, That the petitioners have leave to withdraw their petitions and documents.

### DEPARTMENT OF STATE, Dec. 12, 1817.

The Secretary of State, to whom, by a resolution of the House of Representatives of the 29th of January last, were referred the petitions of Antoine Bienvenu, Peter Lacoste, and Jacques Villeré, citizens of Louisiana, has the honor of submitting the following report:

The petitioners complain that when the British forces retreated from the island of Orleans, at the close of the late war, they carried away a considerable number of slaves belonging to them; the restoration of which was, after the ratification of the treaty of peace, demanded by General Jackson, conformably to the first article of that treaty, of the British commanding officer, General Lambert, and by him refused; and they apply to Congress for indemnity for the loss of their property.

Subsequently to the reference of these petitions, a Message from the President to the Senate of the United States was, on the 7th of February last, transmitted, to that body, with all the documents then in the possession of this Department relating to the subject of these petitions; a printed copy of that Message and of those documents is herewith transmitted, which it is respectfully requested may be received as part of this report. By them it will be seen that a different construction has been given by the British Government to that part of the first article of the Treaty of Ghent which relates to the restitution of slaves captured during the war, from that contended for by this Government. That, according to their construction, the British Government have not considered themselves bound to make restitution of any of the slaves or other property thus taken and carried away; and that the difference of opinion between the two Governments remaining, after all the amicable discussion between them of which the subject was susceptible, a proposal was made, on the part of the United States, on the

17th of September, 1816, that the question should be referred to the arbitration of some friendly Power. To this proposal no answer from the British Government has yet been received. Their attention to it was again invited by the late Minister of the United States in England, before he left London, and has been urged anew in the instructions to his successor.

All which is respectfully submitted.

JOHN QUINCY ADAMS.

### THE CASE OF MR. MEADE.

Mr. TRIMBLE, of Kentucky, offered for consideration the following resolution:

*Resolved*, That the President of the United States be requested to cause to be laid before the House any information he may be able to communicate relative to the impressment and detention of Richard Cowles Meade, a citizen of the United States.

Mr. T. said that, having offered the resolution, it might be expected that he would give some explanation of the case to which it alludes. He had a right to presume that every member of the House had heard of the confinement of Mr. Meade. More than three years ago that gentleman had been incarcerated in a Spanish dungeon, where he had ever since remained. It was within his (Mr. T.'s) recollection, that many persons had expected that the last Congress would have caused an inquiry to be made into the subject; but, since that period, the case had assumed a new character, of most extraordinary complexion. It was well known, he said, that Mr. Meade is a citizen of the United States, and he believed, was, at one time, an accredited Consul, resident in some part of the Spanish dominions. Either character ought to have protected him from violence and outrage. But, unfortunately for him, they did not. The *causes* which produced his confinement were unknown to Mr. T.—they were probably buried in the vaults of the Inquisition. That, however, was of little consequence, if the facts which he was about to state were true; and that they are true was evinced, he said, by a document which he held in his hand, and which, he said, struck the mind with as much force as if it was marked with the characters of official certainty. I am prepared, said he, to admit, that if a citizen of the United States shall violate the penal or criminal code of any other country, he must submit to the punishment which may be inflicted on him; but such is not the case of Mr. Meade. It was not contended, he said, that the person in question had violated the letter or spirit of any part of the penal or criminal code of Spain—and, on the contrary, the document which he held in his hand afforded the highest evidence that there was no cause of complaint against him. Upon some urgent and vigorous remonstrances being made on this subject by our Minister, Mr. Erving, a *public notorious* royal order was issued. Mark me, sir, said he—a *public notorious royal order*, announcing to Spain, to America, and the whole world, that there was *no cause* for the detention of Mr. Meade, and directing his immediate releasement. How the

aching heart of Mr. Meade must have throbbed and swelled, cheered with the prospect of leaving in a few hours his loathsome, pestilential dungeon, to breathe once more the free and wholesome air! How it must have sunk and died within him, when the doors of his "prison house" were unbarred by a meagre minion, who had come skulking through the vaults of those abodes of death, with another *secret* order. Mark me again, sir—another secret order issued at the same time, under the same royal signature, commanding his *keeper* to hold the prisoner at his peril. Yes, sir, one order, public and notorious for his releasement, and another secret order for confinement, of the same date, and under the same royal signature. If these facts be true, the case stands without a parallel in ancient or modern times. Even the case of Czerney George has no similitude; he was a monster, executed by the Turk, because he had, in cold blood, plunged his sabre through the heart of his own father. Whereas Mr. Meade is acknowledged to be an innocent victim, suffering under royal displeasure. I will not attempt, said Mr. T., to paint the horrors of a Spanish dungeon, or the sickenings of hope at protracted confinement. It is not my wish to excite public feeling, and I utterly disclaim all intention of connecting this subject with other questions, now under discussion, or which may fall under discussion, between this Government and Spain. Mr. T. averred also that he had entire confidence in the late and present Executive heads of the Government, and had no doubt that everything which could be done had been done in behalf of Mr. Meade. But he held it the duty of this House to inquire into this (he would again call it) extraordinary case, and, if the facts and circumstances shall require it, make such expression of its opinion as will add weight and force to future Executive exertions. If the case were as well-founded rumor told, he for one was ready to volunteer his arm in defence of Mr. Meade, and breast the storm, unfearing consequences. For, said he, while I have the honor of a seat in this House no lawless despot shall lay an angry *finger* on a fellow-citizen of mine, without the hazard of bringing that *finger* to the *block*. He was one of those, he said, who were willing to believe that we ought not at this time uselessly to embroil ourselves with any foreign Power; and he was thoroughly satisfied that it is our best and wisest policy to husband our resources, our men, and our means, to meet the coming conflict with the only nation that *dare* strike us upon the land or on the water—the only nation that can send us a Hannibal, or whom we shall revisit with a Scipio—that nation who has already sacked our infant Rome, and whose proud Carthage we shall one day humble in the dust, and sweep with the besom of retributive desolation. But, said he, there are no present circumstances, or looked for events, that ought to incline us to harden our ears, that we may not hear the calls of a suffering citizen, imploring our protection. Solon, I think it was, upon being asked, "What

form of Government is best?" replied, "That form in which the smallest insult offered to the meanest citizen is considered an injury to the whole community." Could a better maxim be adopted in a Government like ours? Is there anything which so exactly accords with the principles of our Constitution? This, it is true, is but a single instance of individual oppression; but the outrage done to the personal rights of the victim; the infraction of national law; and the affront, the insult offered to our Government, is exactly the same as if half a million had been incarcerated; for he held that our system of Government is the true poetic chain, which links us together as a band of brothers—and

"If from that chain a single link you strike,

"Ten, or ten thousand, break the chain alike."

We are bound, sir, said Mr. T., under our Constitution, to protect the life, liberty, and property of every citizen of our country. But where may he claim that protection? Or rather, where shall his right to claim it cease? Is it confined to the limits of the Union? or does it not extend to the remotest region of the globe, which is visited by our people? May the citizen claim it against the savages of the Western wilds, and is he not entitled to it among the still more lawless chieftains of a decaying, perishing, and ruined monarchy? It is not in this land of liberty that the citizen need call for protection; here it comes, as it were, unbidden, to encompass him about; but when oppression falls upon him in a foreign land, among strangers, friendless and unprotected, his supplicating voice should not be heard in vain; for everything which is obligatory in the social compact, or honorable in humanity, calls for and commands your protection, as if he stood upon the sacred soil that gave him birth. Who of us, said Mr. T., in the condition of Mr. Meade, would not ask this inquiry of this House? Which of us will refuse it? for the honor of my country I hope there is not one.

The motion of Mr. T. was agreed to without opposition or further debate.

#### REVOLUTIONARY SURVIVORS.

The House having resolved itself into a Committee of the Whole on the bill concerning the surviving officers and soldiers of the Revolutionary war—

Mr. FORSYTH regretted that the amendments proposed by the gentleman from Ohio had not been printed, as the object he had in view was not understood by the Committee. Every gentleman who had discussed the subject since they were introduced appeared to think it was proposed to extend the provisions of the bill to all the surviving officers of the Revolutionary army. This was not the case. The proposition is to change the application of the principle, and, to a certain extent, to enlarge the provision of relief; but the principle of the bill and the amendments were essentially the same. Both contemplated relief to indigence only. If he understood the proposition, (and if he did not he hoped to be corrected) the alterations proposed were: To

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render it unnecessary for the persons claiming the benefit of the act to establish the fact of their poverty by proof: every indigent officer and soldier who asked, as such, were to receive the pension offered by the Government on the production of the evidence of service during the Revolutionary war; it was left to his own honor to determine how far his poverty entitled him to the bounty of Government: To graduate the amount of pension by the rank of the officer, clogged with the limitation of the original bill, that no pension should exceed the half pay of a lieutenant colonel: To give to every Revolutionary officer in the service of the United States since the peace of 1783, and who has been disbanded, pay according to the rank he last held in the Army. Mr. F. was friendly to the first part of this proposition; he did not think that it was either ridiculous or disgraceful for an individual to confess his indigence, and accept a support from the Government of this country; but he was anxious to save those who ought to be relieved from the humiliating necessity of searching for evidence of the precise quantum of their property, or producing surgeons' certificates of the state of their bodily strength. He was aware that some impositions would be practised, but he preferred that the Government should lose a few hundred dollars to the risk of depriving a single suffering officer or soldier of the pittance proposed to be allowed, from the operation of even a false delicacy. As, however, the original bill, by mere verbal modification, would produce the same end, he should vote against the amendment proposed; because of its connexion with the other alteration he deemed inadmissible. The graduation of the pay according to rank was a work of unnecessary detail; it could make the limitation but a few dollars difference to the highest rank, and, Heaven knows, twenty dollars per month was but a poor subsistence for any man who had ever been accustomed to live like an officer. Besides, the Committee were relieving the wants of the suffering, not regulating the emoluments of rank; and he was confident no general officer would regret that, after being reduced to the half pay of a lieutenant colonel, an ensign should have the same allowance that was given to himself. Mr. F. was at a loss to understand the ground upon which the last proposition was defended; upon what principle the rank of an officer of the Army subsequent to 1783 was to be considered as entitling him to the emoluments given to those of the same rank prior to that period. If a discrimination was made, it ought to be in favor of those who never had been subsequently employed. Those retained in service, or subsequently reappointed, had, to a certain extent, enjoyed the bounty of the Government: instead of deserving more, they were, on that account, entitled to less than their fellow officers, who have not experienced the same good fortune. Mr. F. was, therefore, opposed to the proposed change. With the great majority of the House, he was disposed, after the verbal modification to which he had

alluded should be made, to vote for the bill without scanning too curiously the motives of his conduct. It was enough for him to know, that there were men, the recollection of whose services always inspired the most grateful emotions, in want, to desire to relieve them. So far as it could be done without the violation of principle, or the establishment of a dangerous precedent, if his voice could effect it, it should be done. He must protest, however, against the doctrine advanced by several gentlemen, that these individuals had claims upon the justice of the country for pecuniary assistance. An honorable gentleman from Kentucky, (Mr. TRIMBLE,) and the honorable gentleman from the State of Maryland, (Mr. SMITH,) had told the Committee that some remuneration was due, since the commutation of five years' full pay for the promised half-pay for life was forced upon the officers at the close of the war. The preamble of the resolution of Congress offering this alternative declares that the offer was made at the request of the Army—a boon granted to their solicitation, and for the reasons stated in their petition to that body. At this day it is too late to complain of their choice. The Government, according to its ability, dealt with them as with all its creditors, and distinction cannot be made in their favor without injustice to all those to whom it was indebted. It is unfortunately true, that before the United States could redeem its moneyed obligation, the original claimants had parted with their right; and, although the Treasury paid every shilling in the pound, principal and interest, those who earned did not receive the allowance. The time was when a just discrimination in their favor might have been; but the opportunity was sacrificed to the chimerical notion of laying deep and broad the foundation of the public credit, by securing immense wealth to those who had speculated upon the supposed public insolvency. The obligation of money was paid to those to whom the right of receiving it was assigned. That improvidence, or necessity, or want of just confidence in the resources of the country, induced the original holders to part with their demands, is to be deeply regretted; but the fault was not ours, and it is not in our power to remedy it. We owe the Revolutionary officers no debt. Mr. F. said, he spoke not of the moral obligation for the achievement of independence and the security of public and individual liberty. The benefits which they had bestowed were infinite, and no pecuniary recompense could discharge the vast amount. But even here a suitable recompense had been afforded. Those who resisted the invasion of the rights of the people, and secured their enjoyment, who established the independence of their country, have enjoyed, in common with their fellow-citizens, those inestimable blessings. Nay, more, they have been, at all times, the peculiar objects of the patronage of the Government, and of the people's love. Revolutionary service is the passport to office and to the confidence of their fellow-citizens. There are some instances of a contrary character, but

they are only exceptions to a general rule, arising from some unfortunate political opinions, or from the character of the individual. Of the truth of this statement, a reference might be made to the history of the public offices in the General Government. Even under his eye there were striking examples of it. What gave to the honorable chairman who reported the bill (Mr. BLOOMFIELD) the undeviating support of his fellow-citizens in New Jersey; that raised him from office to office, until he was elected to the Executive Chair, and thence as their Representative in this Hall? Was it his pure integrity, his good sense, his upright character, and undeviating political consistency? There were many men in New Jersey, who, in all these qualities, might hope to equal him; but to all these he added the important requisite of Revolutionary service. The other honorable member of the committee, who was the zealous advocate of the bill, (Mr. SMITH)—what had secured to him, for so many years, the confidence of the State of Maryland, or of the district in which he lives? He served during the Revolutionary war. Living in a city, Mr. F. would not call it factious, but certainly distinguished by the violence of its political feelings, what has at all times enabled him, if not to satisfy its expectations, at least to escape the consequences of its resentment? Is it his powerful intellect and extensive commercial information; his industry and his zeal? In all these he has formidable competitors. It is because, even when filled with resentment at a portion of his political conduct, they could not consider his claims for their suffrages without the glorious defence of Mud Fort rising unbidden to their view. Every State government would furnish similar illustrations. Revolutionary officers and soldiers gave steadiness to the movements of the Legislative bodies, added wisdom and dignity to the Judiciary, and nerved the arm of Executive power. Even those who have partaken of none of these advantages, who are old and helpless, steeped to the lips in poverty, have they not the consoling, the glorious reflection, that their toils and their sufferings are the causes of the prosperity which is smiling around them? Where is the selfish reptile, who, under such circumstances, will not exclaim, "I am amply rewarded!" This is not the cry of fond enthusiasm, but the dictate of sober reason. The severest mortal agony is amply repaid by the consciousness of having raised our country to its elevated rank—of having contributed to the felicity of millions of the human race.

The debate continued on the main subject and on the proposed amendment of Mr. HARRISON. In this debate Messrs. BLOOMFIELD, S. SMITH, HARRISON, COLSTON, BALDWIN, CLAGETT, HOPKINSON, RHEA, ROSS, and INGHAM, bore part.

The amendment proposed by Mr. HARRISON, was ultimately rejected; as also was a previous question for the rising of the Committee, in order to postpone the subject.

The Committee then went on further to amend the bill, on suggestion of various members. In

the proposition and discussion of these amendments, Messrs. PETER, BLOOMFIELD, LIVERMORE, PARRIS, RHEA, BENNETT, BEECHER, HARRISON, TERRY, FORSYTH, SMITH of North Carolina, TAYLOR of New York, TALLMADGE, WHITMAN, CLAGETT, PALMER, and STORER, took part.

Among the successful motions was one by Mr. PARRIS, to include the "officers and mariners who served in the Navy of either of the States, or of the United States," thus placing the Revolutionary officers of the Navy on the same footing as those of the Army.

The Committee of the Whole rose, about four o'clock, and reported the bill as amended.

The House took up the amendments reported by the Committee; when various propositions were successively made and discussed to disagree to or amend many of them.

The House having at length gone through the amendments, the bill was ordered to be engrossed, as amended, *nem. con.*, and read a third time tomorrow.

Mr. SPENCER then offered a joint resolution, that the two Houses should adjourn on Wednesday, the 24th instant, to meet again on Monday, the 29th instant. The resolution was twice read, and ordered to be engrossed for a third reading—was subsequently read a third time and passed—yeas 84, nays 63.

And the House adjourned.

#### WEDNESDAY, December 24.

The House resolved itself into a Committee of the Whole, on the bill from the Senate, entitled "An act for the relief of the heirs of Landon Carter, deceased." The bill was reported without amendment, and referred to the Committee on Pensions and Revolutionary Claims.

The SPEAKER laid before the House a report on the petition of John Bate, to him referred; which was ordered to lie on the table, but was subsequently taken up, and referred to the Committee of Claims.

The bill for the relief of Joel Earwood; the bill for the relief of Samuel Arkman; a bill making provision for the establishment of additional land offices in Missouri Territory, severally passed through a Committee of the Whole, and were ordered to be engrossed for a third reading.

The bill for the further relief of John Thompson passed through a Committee of the Whole, and was rejected; but was subsequently, at the instance of Mr. JOHNSON, of Kentucky, reconsidered, and ordered to lie on the table.

The House then resolved itself into a Committee of the Whole on the "bill by which the right of citizenship may be relinquished."

On suggestion of Mr. LOWNDES, that this was a subject of too much importance to be acted on with so thin a House, Mr. ROBERTSON, of Louisiana, (the author of the bill,) consented to its postponement, by the Committee rising, and obtaining leave to sit again.

On motion of Mr. DRAKE, of Massachusetts, the Committee of Commerce and Manufactures



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were instructed to inquire into the expediency of granting bounties to manufacturers who manufacture a given number of yards of woollen and cotton cloths of a certain width, and that a permanent fund be appropriated for that purpose.

#### SURVIVING REVOLUTIONARY PATRIOTS.

The bill providing for certain surviving officers and soldiers of the Revolutionary Army was read a third time.

A motion was made by Mr. LOWNDES to recommit the bill to a Committee of the Whole House, with instructions "to limit the benefit of the act to soldiers who were enlisted for a term of three years, or for the war, and who did not desert; and to officers who continued in the service of the United States to the conclusion of the war in 1783, or were left out of the service in consequence of disability, or in consequence of some derangement of the Army."

The question being stated on thus recommitting the bill, Mr. EDWARDS moved to amend the said instructions by striking out the words "*three years*," and to insert in lieu thereof the words "*one year*."

And the question being taken thereon, it was decided in the affirmative.

Mr. JOHNSON, of Kentucky, said, a proposition had been made, if he understood correctly, by the gentlemen from South Carolina, to recommit the bill to a Committee of the whole House, with instructions so to amend it as to limit the benefits of the act to soldiers who were enlisted for a term of three years, or for the war, and who did not desert, and to officers who continued in the service of the United States to the conclusion of the war in 1783, or who were left out of the service in consequence of disability, or of some derangement of the Army.

Mr. J. said, he was opposed to such limitation. The discrimination would exclude many officers and soldiers, one-half at least, who were embraced in the present provisions of the bill. It now provides, said Mr. J., for officers of every grade who served in the Revolutionary war, and who are now in a state of indigence, and unable to procure a livelihood by their own exertions, the sum of twenty dollars per month to each; and eight dollars per month to each of the gallant soldiers of the Revolution, who are thus reduced to penury and inability. It is well known to all, that the great contest in which the United States were engaged, for the establishment and defence of their independence, substantially terminated in 1781, when General Washington, at the head of the combined forces of the Union, compelled the British General Lord Cornwallis to surrender, and led captive the legions under his command. After that glorious event, many officers and men retired to private life and civil pursuits, under the full conviction that the conflict was then at an end; and the event justified their conclusion. The forces of the contending parties, from that time, confined themselves to the duties of the camp; and if skirmishing parties sometimes came into contact, it was more by casualty than design.

To confine the bounty of the Government, therefore, to those who continued in the service until the Treaty of Peace, would be to exclude one-half of those who braved the danger of the field in devotion to their country's cause, and are now entitled to protection and support. Nor can I concur in the sentiment that it is necessary for a soldier to have served for the term of three years to entitle him to the gratitude of his country. Will this amendment embrace the volunteers who traversed the Western wilds with General Clark? Will it embrace the militia, upon whom draughts were made in all cases of emergency—who were called upon in every crisis of the Revolution, and who never failed, in the hour of trial and danger, to come to the help of the Lord against the mighty? Whatever sentiment may prevail as to their inefficiency, experience confirms the opinion that they were equally useful, and equally important in their place, with the gallant soldiers of the Continental line. I do not, therefore, see the propriety of requiring this term of service. It is needless to call to the recollection of this House the many glorious achievements of our Revolutionary heroes, which demonstrate the fact that not three, nor even one year's services is necessary to render the most essential benefits to the cause of independence. They naturally crowd upon every mind whenever that struggle becomes the theme of contemplation, and bear conviction to the heart that these heroes of liberty, from whose fortitude and valor the present blessings of our country have, in a great measure, resulted, are really entitled to the gratitude and consideration of the Government.

Mr. J. said, it was sufficient, in his opinion, to guard against imposition, by making service and poverty the basis of the bill. He was unwilling to add greater limitations, or any principle, which would restrain, beyond these points, the bounty and generosity of the nation.

I have attended, said Mr. J., to the deliberations upon this subject, with great anxiety, for a week past, and with heart-felt felicity, have marked the disposition of the House, beyond what has been manifested on any former occasion, to provide for the war-worn soldiers of the Revolution. My eyes, said he, have been constantly fixed upon the venerable patriot from New Jersey, (Gen. BLOOMFIELD) who has so frequently presented himself to the House in favor of his gallant countrymen and faithful compatriots in arms. With gratitude to heaven, do I view the agency of Divine Providence, in bringing him into this House, with the frost of seventy Winters upon his head, to plead the cause of those who breasted the storm of the Revolution. The sympathetic ardor in which that venerable patriot has discharged his duty, both to his country and to his brethren in arms, combined with the unaffected modesty of his manner, has excited the deepest sensibility. I have abstained from taking part in the debate, fearing that it might have injured the cause; but I hope to be excused on the present occasion, in troubling the House, particularly when I discover that the chairman of the

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committee who reported the bill, is exhausted with fatigue, and the bill is now on its passage.

A crisis, and to me, said Mr. J., an awful crisis of this business has arrived. Recommit the bill, and I fear it is lost forever, amid the diversity of opinions which we discover upon the subject. Some would confine the benefits of the bill to the Continental troops; others would extend them to the State troops and militia. Some would embrace in its provisions the rich as well as the poor; others would limit the bounty to the needy. Some would provide for those only who served during the war; some for those who served three years: some would limit the term of service at one year, and some at six months. Some would exclude the felon and the traitor, and others would embrace, indiscriminately, all who braved the dangers of the field. Amidst these jarring opinions, if we recommit the bill, it may be lost forever.

I am satisfied, said Mr. J., to provide for the surviving officers and soldiers of the Revolution, who are poor and needy, and who cannot procure a livelihood by their own exertions. Very few of these worthies now remain, and but few of these will claim the benefit of this country. Many distinguished citizens of the United States are now engaged, by associations and contributions, to provide a refuge of safety and repose for the unfortunate Africans among us, and it is said, that the territory is already in contemplation upon their native continent. The moral and religious world is zealously engaged in the meritorious work of forming numerous missionary societies, and in bestowing liberal donations, to disseminate the heavenly doctrines of the Gospel, and the sublime principles of Christian morality, even among the benighted Hindoos, as well as among the aborigines of America. Every enlightened class is now engaged in the holy work of distributing the word of God to the poor, both in our own and in foreign domains. Even the monarchies of Europe are at this moment uniting in measures to secure the continent of Africa from the curses of the slave trade. In this age of philanthropy, while contemplating these benevolent undertakings, the mind naturally turns to the indigent American, and inquires, with anxious solicitude, whether the officer and soldier of the Revolution are not equally worthy of our regard. With pleasure we behold the world, upon the broad basis of universal charity, embracing in its benevolence the best gifts of the Creator, and extending those gifts to the universe. But, superadded to the common obligation of benevolence, we are bound, by the strongest ties of gratitude and justice, while we reap the fruit of their toils and perils, to administer this last consolation which hoary age can enjoy at our hands.

In tracing the history of nations, we see but few States in which liberty has been enjoyed, and in these few States it has found but a transient abode. In the general prevalence of despotism, liberty has maintained an existence only upon the mountain's brow, and in craggy cliffs, which scarcely presented sufficient charms to

invite the cupidity of tyrants; and now, not a foot of soil in the universe can boast the freedom which we enjoy. But here a happy scene presents itself. And all the luxuries of nature, sweetened with Heaven-born liberty, wanton around us; and this liberty is the fruit of these men's valor. Their happiness or misery, for the little remnant of their days, awaits the fate of this bill. In that book which inculcates the purest sentiments of benevolence, we read of a pool where the sick, the lame, and the halt, waited for the troubling of the waters, to be healed of their miseries. Here, sir, have the officer and soldier of the Revolution been waiting for these thirty-five years for the troubling of the waters; and, I beseech you, let not their hopes be blasted. At a moment like this, when expectation is all alive, disappointment would be more than their trembling limbs could sustain; but your favorable decision this day will confer that reward which will smoothe the declivity of life, and secure the dying blessing of the friends of liberty, the benefactors of their country.

But, sir, I will not further trespass upon your time. I thank the House for the patience with which they have listened to these remarks. When I arose, it was not my intention to have detained you thus long; but an earnest solicitude for the founders of American independence would not suffer me to say less; and I trust the decision will show that it were needless to say more.

After a considerable debate, in which Messrs. MILLER, OGLE, and RHEA took part, a division of the question being required, it was taken on recommitting the bill, and decided in the negative, ayes 57.

The question was then taken on the final passage of the bill, and decided in the affirmative without a division.

#### REMISSION OF DUTIES.

The bill for the remission of the duties on the painting presented by Benjamin West to the Pennsylvania Hospital was then taken up in Committee of the Whole.

Mr. NEWTON, of Virginia, said the object of the bill under consideration was to remit, to the Pennsylvania Hospital, the duties on a painting, called "Christ in the Temple, healing the Sick," presented to that institution by Benjamin West. The British Government, with a liberality and promptitude that does honor to it, remitted every charge incident to the exportation. The reception of it in this country would, Mr. N. said, he trusted, be met by the Government in a spirit not less gracious and liberal. The munificence of this celebrated artist—a munificence, the exercise of which belongs only to genius of a superior order, and of extensive acquirements—would, he hoped, be acknowledged in such a manner as to manifest the sense this Government entertains of the respect shown by him for this nation. The painting, Mr. N. added, is considered as the *chef d'œuvre* of his pencil. The present is designed as a memento of the love that illustrious man bears his native land. It is also

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highly complimentary to the taste and judgment of this nation. The painting, moreover, reflects honor on this country, and extends its fame, as it is the production of an American. Permit me, said Mr. N., to congratulate my country on her rising fame. The genius and skill displayed by Trumbull, by Stewart, by Vanderlyn, by Sully, by Peale, and many others, secure to each an imperishable fame, and to their country, renown. A new epoch has commenced—its progress is auspicious. The Grecian, Italian, Flemish, French, and British schools, will be rivalled and equalled, in time, by our own. I congratulate those who are endowed by genius, but whose means are too limited to enable them to seek, in distant regions, the acquirements necessary to form and fix their judgment, and to give to their taste the characters of delicacy and correctness, on the prospect they have of completing their studies in their native land, under political institutions that give to genius their full scope, and the enjoyment of its creations, and that leave to emulation the influence of developing its powers. The inspiration thus kindled, diffused and made active, will bestow on their works whatever can delight and enchant the mind, and soften and meliorate the heart. Mr. N. asked pardon for this trespass. Had he said less—and less he could not have said—he should not have performed his duty, and done justice to his feelings. He hoped the bill would pass unanimously.

The bill was reported to the House, ordered to be engrossed, and subsequently read a third time, and passed.

#### MONDAY, December 29.

Mr. RUEA, from the Committee on Pensions and Revolutionary Claims, made an unfavorable report on the petition of James Bursiel; which was agreed to.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made unfavorable reports on the petitions of Roswell Woodworth, of James Prince, of Jacob Greer, and of Abraham Byington; the two first of which were agreed to, and the third, on motion of Mr. EDWARDS, laid on the table. The report on the case of A. Byington was, on motion of Mr. RICH, so far modified as to discharge him, in part, from the debt for which he is responsible as security, (that part partaking of the nature of a penalty,) and the report, as amended, was recommitted to the Committee of Claims, to bring in a bill accordingly.

Mr. PINDALL, from the committee to whom the subject had been referred, reported a bill to amend the act respecting the recovery of fugitives from justice, and persons escaping from the service of their masters, [providing the means to be pursued for the recovery of slaves escaping into another State, and affixing the penalties for harboring such fugitives or obstructing their recovery, &c.] The bill was twice read and committed.

The SPEAKER laid before the House a report from the Secretary of War, made in pursuance  
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of a resolution of the House, embracing a list of all officers who held brevet rank in the Army at the close of the late war, their lineal rank at the time of receiving the brevet; and a list of officers of the present Army who hold brevet rank higher than their lineal rank, and the number and grade of such officers as receive, in virtue of their brevet rank, greater pay or emoluments than they would otherwise be entitled to by law; which report was ordered to lie on the table, and be printed.

The SPEAKER also laid before the House a report from the Commissioner of Claims, of the facts of the cases of Richard Mansfield, of William B. Holmes, and Mary Sears, and of Samuel Hughes, referred to him; which was referred to the Committee of Claims.

The SPEAKER communicated also a report (of facts only) from the Secretary of the Treasury, on the petition of John Peters and Saben Pond, which had been referred to him. The report was ordered to lie on the table.

Mr. POINDEXTER offered the following motion:

*Resolved*, That a committee be appointed to inquire into the expediency of authorizing the President of the United States to exchange with the Choctaw and Chickasaw tribes of Indians, or either of them, lands belonging to the United States, west of the Mississippi, for lands now in the possession and occupancy of said tribes of Indians, or either of them.

On motion of Mr. COBB, (after some conversation with the mover, and his assenting thereto,) the resolution was amended by including therein the "Creek and Cherokee" Indians, whose territory, within the limits of Georgia, Mr. C. thought it equally important should be obtained by the United States. In this shape, and after, on motion of Mr. TAYLOR, referring the inquiry to the Committee on the Public Lands, instead of a select committee, the resolution was agreed to.

The House resumed the consideration of the motion submitted by Mr. WENDOVER, of New York, for so amending the rules and orders of the House that not more than three bills shall be referred to the same Committee of the Whole. [In support of this motion, Mr. W. made a statement of the practice of the House under the present rules, inferring from it that the practice of referring so many bills to one committee tended to the procrastination of business, and operated frequently as a denial of a consideration of the subject of the bills so referred.] After some further remarks from Mr. BASSETT and Mr. TAYLOR, the motion was agreed to.

Mr. TAYLOR, of New York, submitted for consideration the following resolution:

*Resolved*, by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the General Land Office cause to be engraved a plate of the Surveyor General's official map of the military bounty lands in the Territory of Illinois, and cause to be printed six hundred copies thereof, subject to the future disposition of Congress.

Mr. T. explained his object in moving this resolution, which was to procure, at a small expense,

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to each soldier, along with his bounty land, a map on which its location, &c., should be designated, and which would enable him better to estimate the value of his land. Such a provision, he thought, would be as useful to him as any other provision, in respect to securing him from the arts of the speculator, that Congress could make. The cost he had inquired into, and found that it would not exceed a few cents for each copy.

This motion was supported by Mr. HOLMES, of Massachusetts, and others, and was ordered to be engrossed for a third reading, by a vote of 69 to 58.

The amendments of the Senate to the Mint bill, which go to limit its provisions to five years' continuance in force, were taken up, and agreed to.

The engrossed bill for the relief of S. Aickman, the engrossed bill for the relief of Joel Earwood, and the engrossed bill for making provision, by law, for the establishment of additional land offices in the Missouri Territory, were severally read a third time, and passed.

The bill for the relief of Winslow and Henry Lewis passed through a Committee of the Whole, and was ordered to be engrossed for a third reading.

#### APPOINTMENT OF MEMBERS TO OFFICE.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the House of Representatives of the United States:*

In compliance with a resolution of the House of Representatives of the 12th of this month, requesting to be informed whether any, and which of the Representatives, in a list thereto annexed, have held offices since the 4th of March last, designating the offices, the times of appointment and acceptance, and whether they were at that time so held, or when they had been resigned, I now transmit a report from the Secretary of State, which contains the information desired.

JAMES MONROE.

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#### DEPARTMENT OF STATE, Dec. 26, 1817.

The resolution of the House of Representatives of the 12th of this month, requesting the President to communicate to that House whether any, and which of the Representatives named in the list thereto annexed, have held offices since the 4th of March last, designating the offices, the times of appointment and acceptance, and whether they were at that time so held, or when they had been resigned, having been referred to this department, the Secretary has the honor respectfully to report to the President as follows:

*John Holmes*, of Massachusetts, Commissioner under the 4th article of the Treaty of Ghent, appointed 16th February, 1816, resigned 24th November, 1817.

*Samuel Herrick*, of Ohio, Attorney of the United States, appointed 19th December, 1810, resigned 29th November, 1817.

*Daniel Cruger*, of New York, postmaster at Bath, appointed 29th June, 1815, resigned 1st December, 1817.

*Elias Earle*, of South Carolina, postmaster at Cen-

treville, appointed in April, 1815, resigned 12th June, 1817.

*Thomas H. Hubbard*, of New York, postmaster at Hamilton, appointed 11th March, 1813, resigned 23d October, 1817.

*Samuel C. Crafts*, of Vermont, principal assessor for the sixth collection district, appointed 4th January, 1815, resigned 5th June, 1817.

*George Robertson*, of Kentucky, principal assessor for the seventh collection district, appointed 4th January, 1815, resigned 5th June, 1817.

*George Mumford*, of North Carolina, principal assessor for the tenth collection district. No resignation has been received from Mr. Mumford.

*Levi Barber*, of Ohio, receiver of public moneys at Marietta, appointed 3d March, 1807, resigned 1st December, 1817.

*John F. Parrott*, of New Hampshire, naval officer for the district of Portsmouth, appointed 23d April, 1816, resigned 15th November, 1817.

JOHN QUINCY ADAMS.

Referred to the Committee of Elections.

#### PETITION OF A. WORSTER.

The House having resolved itself into a Committee of the Whole on the report of the Committee of Claims on the petition of Alexander Worster, Mr. HOLMES, of Massachusetts, moved to reverse the report, which is unfavorable to the petition. This motion was supported by the mover, and opposed by Mr. WILLIAMS, of North Carolina, the chairman of the Committee of Claims.

[The case is that of an officer enlisting a minor, through erroneous information, who prays Congress to indemnify him for loss sustained in consequence of damages recovered from him by the relatives of said minor.]

The Committee agreed to reverse the report, 63 to 48; and the Committee having risen, the question of concurrence in this decision being put, and the yeas and nays thereon having been required by Mr. POINDEXTER,

On motion of Mr. HOPKINSON, who desired further time to inquire into the facts, the report was ordered to lie on the table, 65 to 61.

#### AMERICAN AND BRITISH TONNAGE.

On motion of Mr. PITKIN,

*Resolved*, That the Secretary of the Treasury be directed to lay before the House a statement of American and foreign tonnage employed in the foreign trade of the United States in the years 1815 and 1816, and, as far as practicable, in the year 1817, distinguishing the nations to whom the foreign tonnage belonged; also, a statement of American and British tonnage employed in the trade between the United States and the British dominions in Europe for each of the said years, distinguishing the amount employed between the United States and the united kingdom of Great Britain and Ireland, and the other British European dominions.

That the Secretary of the Treasury be also directed to lay before the House a statement showing the amount of British tonnage in the trade between the United States and the British West

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Indies, and between the United States and the British North American colonies in 1815, 1816, and 1817, containing the amount entered in and cleared from the American ports in each of said years.

*Resolved*, That the Secretary of the Treasury be directed to lay before the House a statement showing the quantity of sugar, coffee, rum, molasses, and cocoa imported into and exported from the United States in each of the years 1815, 1816, and 1817, together with the countries and places from whence the same were imported, and the quantity imported from each country and place.

In submitting his motion, Mr. PITKIN briefly remarked on the importance of the information which the resolutions called for, and the necessity there was for the House being in possession of it, particularly in certain interesting questions which would come before the House on the subject of trade and navigation.

TUESDAY, December 30.

Mr. TRIMBLE presented a petition of the Abolition Society of Kentucky, praying that the plan, at present before the National Legislature, for colonizing the free people of color, may be carried into effect.—Referred to the Committee appointed on the petition of the representatives of the annual meeting of the society of Friends in Baltimore.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office; and for designating the western boundary line of the Virginia military line," in which they ask the concurrence of this House.

The bill was read twice, and referred to the committee appointed on the 17th instant, on the subject.

Mr. H. NELSON, from the Committee on the Judiciary, reported a bill providing for the due execution of the laws of the United States within the State of Mississippi; and the bill was twice read, and committed.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, reported a bill for the relief of Colonel John Anderson, indemnifying him for the amount of damages, (four hundred dollars,) recovered from him for acts done in the performance of his military duty; which was twice read, and committed.

Mr. HERRICK, from the Committee on Private Land Claims, to whom was referred the petition of the legal representatives of Elisha Winter and of William Winter, praying confirmation of their titles to certain lands in the Missouri Territory, made a report thereon, accompanied by a bill for the relief of the petitioners; which was twice read, and committed.

The bill to incorporate the Columbian Insurance Society of Alexandria passed through a Committee of the Whole; and, its merits having

been briefly explained by Mr. HERBERT, the bill was ordered to be engrossed for a third reading on Monday.

A motion was made by Mr. ROBERTSON, of Louisiana, to go into a Committee on his Expatriation bill, but was negatived.

On motion of Mr. BASSETT, but at the instance of Mr. CLAGETT, the House agreed to reconsider the report of the Committee of Pensions, (yesterday concurred in,) unfavorable to the petition of James Burceil; and the report was ordered to lie on the table.

The engrossed bill for the relief of Winslow and Henry Lewis, was read the third time and passed.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, communicating, in obedience to a resolution of the House, a statement of the receipts into the Treasury from imports and other taxes within the District of Columbia since the year 1801; also the amount of registered tonnage in the said District; which was referred to the Committee on the District of Columbia.

Mr. MERCER offered for consideration the following resolution:

*Resolved*, That the committee to whom was referred the memorial of the American Colonization Society, be instructed to inquire into the expediency of making such further alterations in the laws prohibiting the citizens of the United States from engaging in the African slave trade, as may more effectually secure their intended operation; and that the said committee have leave to report by bill or otherwise,

In offering this motion, Mr. MERCER made a few remarks, which his distance from the reporter caused to be indistinctly heard. He said that if any apology were required of him for it, it would be found in the Message of the late President of the United States, in which the attention of the House was forcibly called to this interesting subject. Transactions of the nature referred to by the resolution, Mr. M. said, daily occurred under the American flag, disgraceful to the American name—a name dear to all who heard him—a flag glorious in its renown—and these transactions of a character injurious alike to the prosperity and honor of mankind.

The motion was agreed to, *nem. con.*

## MILITARY BOUNTY LANDS.

The engrossed joint resolution, introduced by Mr. TAYLOR, of New York, authorizing the Commissioner of the General Land Office to have engraved a copy of the Surveyor General's map of the military bounty lands in the Territory of Illinois, and to cause to be printed six hundred copies thereof, was read the third time.

Mr. JOHNSON, of Kentucky, said he had made some inquiries on this subject, and had ascertained that the expense would be much greater than had been supposed; that the maps would cost from two to three dollars a copy, and, if there was no objection on that ground, he feared they could not be executed in time to be of service to those now possessing patents. Another objection with him was, that the map proposed was to com-

prehend only a part of the land surveyed. He would prefer, if one was engraved at all, that it should embrace the whole military land. But, inasmuch as he could see no great advantage in the proposition, but a considerable expense, he was opposed to it altogether.

Mr. TAYLOR stated, in reply, that he had been misunderstood as to the supposed expense. He had been informed by the Commissioner of the General Land Office that a map of the military land in Illinois Territory could be engraved for five hundred dollars, and the engraving, paper, and printing might amount to three or four dollars each; but there were fifty thousand soldiers to whom patents had and would issue, who would be benefited by this map—amongst whom, if the expense was averaged, it would not exceed four or five cents each. It was not necessary that each soldier should have a copy; the maps might be so distributed at the court-houses of the different counties, &c., as that many soldiers might have access to and derive all necessary information from one copy. The map at present published of the military bounty lands, he thought, did not give the requisite information; that which was now proposed might be so completed in two or three months at furthest, if executed in the manner of other maps of the public lands, and the benefit be extended to all except the few soldiers who had parted with their patents, &c.

The question on the passage of the resolution was then put, and negatived by a large majority. So the resolution was rejected.

#### THE ACT OF NEUTRALITY.

Mr. MILLER, of South Carolina, submitted for consideration the following resolution:

*Resolved*, That a committee be appointed to inquire into the expediency of so amending the fourth section of the act passed on the 3d of March, 1817, entitled "An act more effectually to preserve the neutral relations of the United States," as to embrace within the provisions thereof the armed vessels of a Government, at peace with the United States, and at war with any colony, district, or people, with whom the United States are or may be at peace.

Mr. MILLER called the attention of the House to the act of the last session, wherein it would be seen that, by an oversight, certainly, because it could not have been the intention of the House, that the vessels of Old Spain might now enter our harbors and increase their force, while those of the colonies were prohibited from so doing. The omission of the words, "district or people," in this part of the act, gave to it a force as to the vessels of the colonies which it did not possess in regard to Spain, who was not at war with any "Prince or State" at peace with the United States. The operation of the law thus exclusively favored Old Spain, which, Mr. M. repeated, never could have been the intention of the House. The act, as it originally passed this House, contained no such provision; and the error could only be accounted for by its having passed when returned from the Senate without due attention. It was the deliberate sense of Congress, at the last ses-

sion, that the United States ought to assume an attitude entirely neutral, in the contest between Spain and her colonies; but this act having a different aspect, he had thought it his duty to bring the subject to the view of the House, that it might immediately act on this point. It was true that a committee of this House was already charged with the whole subject; what they meant to do in relation to it he knew not; perhaps they might intend to offer an entirely new system; but, on this point, he thought Congress ought to act without reference to any general system. The partial error should be rectified by a special act.

Mr. FOSYTH said it might be recollected by the House, that the Committee on Foreign Relations were specially charged with the whole subject of the neutral relations of the United States. That committee, he stated, had not reported, because they had not received all the information they wished from the Executive offices, but which they were in hourly expectation of receiving. When received, the committee would report with promptitude. Mr. F. vindicated the Committee on Foreign Relations of last session, and the House, from participation in the error which was apparent in the act; for, as the gentleman from South Carolina had truly stated, it was the object of the House of Representatives, and, he believed, of the Congress, to pass an act to preserve to each party all its rights as a neutral nation. The bill which passed this House was framed for that special purpose, and would have answered it. The Senate, preferring a different form for the bill, had struck out the whole of it except the enacting clause, and passed the bill as the act now stands. The bill which passed the Senate was brought into this House after ten o'clock on the last night of the session. At that hour it was impossible to give the bill so critical an examination as, under different circumstances, it would have received; and this verbal inaccuracy had been overlooked; for he was satisfied, he said, that the error itself had been one of inadvertence, merely.

In conclusion, Mr. F. observed, he could say with confidence that, if the Committee on Foreign Relations did nothing else on the subject referred to them, they would attend to this object; and he therefore hoped the House would not, by this resolution, take the subject out of their hands.

Mr. MILLER said that, the reason which the gentleman from Georgia had offered why the committee had not reported, was the very reason why he had proposed this motion. That committee had before it other matters requiring deliberation and further information; but it was no reason for refusing to remedy a particular error, that the committee wished to form a system. If that argument prevailed, and the President were to delay until the last day of the session the information desired, there would be no opportunity of correcting a mere verbal inaccuracy, self-evident, requiring no information, and of merely making a particular act what Congress originally intended it should have been. Incidentally referring to



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Cobbett's letter on the subject of the act in question, in which this error was alluded to, Mr. M. said, he would avail himself of any suggestion from any quarter having for its object to place the United States in an entirely neutral position. The moment he was placed in possession of the fact of an inequality in any of our laws on this head, that moment he was for acting on it, without waiting for the report of a system which had no necessary connexion with it.

Mr. HOLMES, of Massachusetts, seeing that the subject was already generally referred to the Committee on Foreign Relations, moved to amend the proposed resolution, so as to refer it to that committee instead of a select committee.

Mr. MILLER, regarding such a reference as a special charge to that committee, accepted Mr. HOLMES's amendment as part of his motion.

Mr. FORSYTH said, if the House, indeed, thought it all-important that this error should be immediately corrected; that it was important to the interest of the colonies and of the United States, that the error should be corrected the moment it was pointed out by Mr. Cobbett, or by anybody, this resolution might have some claim to the favor of the House. But, Mr. F. said, no evil had arisen, nor would arise, from the error, before it is corrected; he would say, without fear of contradiction, that no Spanish vessel had been armed, or had her armament increased, since the passage of that act, or would be now. As this subject was already in the view of the committee, and within the scope of its duties, Mr. F. hoped this special instruction would not be given.

Mr. EDWARDS, of North Carolina, concurred in opinion that the proposed alteration of the law ought to be made; but he had full confidence in the committee which was already charged with the investigation of the subject, and it was no more than ordinary courtesy, after the assurance received from the chairman of that committee, (Mr. FORSYTH,) that this special instruction should not be given. He therefore moved that the resolve lie on the table.

Mr. MILLER said, in addition to the general propriety of his motion, he had just received information that vessels of war were actually building in New York for the use of the Spanish Government. But, he said, if no inconveniences have resulted from the defect of the law, it does not follow that they may not. To rescue this House from the imputation of a partiality which it had never been their intention to have manifested, he was desirous to have the subject immediately and specially acted on.

Mr. FORSYTH said, if the gentleman's information was correct, that armed vessels were preparing for the use of Spain in our ports, that was a case amply provided for already by the law. The Government of the United States is authorized to seize and its courts to condemn such vessels, one half to the use of the informer, the other half to the use of the Treasury. The section in which the error had been detected, referred only to an increase of the armament of foreign vessels already armed: a former section of the same act

amply provided for the case the gentleman had cited.

The question to lay the resolution on the table, was decided in the affirmative—79 to about 50 votes.

### COMMUTATION BILL.

The House, on motion of Mr. JOHNSON, of Kentucky, resumed the consideration of the bill to commute the bounty lands of the soldiers of the late Army. The question being on concurring in the amendments reported to the House by the Committee of the Whole—

Mr. ROBERTSON, of Louisiana, rose for the purpose of offering an amendment, which would essentially change the features of the bill; in doing which, he entered somewhat into an examination of the merits of the principle of the commutation, which he decidedly approved. This amendment, in substance, authorizes every soldier, on surrendering his warrant at the land office to be cancelled, to receive a certificate of the quantity of land surrendered; and where patents have issued, the patentee to surrender his patent to the Commissioner of the General Land Office within — months after the passage of this act, in order to avail himself of the provisions thereof, and deposit at the same time an affidavit that he has not transferred or sold such patent to any person whatever, and receive a certificate therefor; and for these certificates such soldier or his agent shall receive certificates of stock bearing an interest of six per cent. per annum, redeemable at the pleasure of the Government, or within five years, at the rate of one dollar per acre for the land for which the warrant or patent has been surrendered, &c. Mr. R. thought the bill important, both as it regarded the soldier and the United States, but infinitely more important to the interest of the latter. It was all-important, he argued, that these lands should be taken out of the hands of speculators, and be redeemed by the nation. His amendment offered conditions to the soldier much more liberal, at the same time that it would be more convenient to the Government than the provisions of the present bill. The interest of both parties would be preserved, and the community rescued from that speculation which would, without this bill, certainly take place. Mr. R. dwelt some time on the policy of this measure—the expediency of which he illustrated by several arguments—and on the advantages of the change which he proposed in the bill.

The amendment offered by Mr. R. having been read—

On motion of Mr. JOHNSON, of Kentucky, the proposed amendment was ordered to be printed and the whole subject to lie on the table.

### GEORGIA MILITIA CLAIMS.

On motion of Mr. COBB, of Georgia, the House resolved itself into a Committee of the Whole, on the bill providing for the payment of the claims of certain detachments of the militia of Georgia, for services in defence of that State, in the years 1793 and 1794.

Mr. COBB observed, that the filling the blank

necessarily involved the merits of the bill, for, that, before the committee could be required to fill the blank with a certain sum, they should be satisfied whether anything was due. He hoped he should be able satisfactorily to convince the committee of the justice of the claim, and that the sum proposed was the proper amount to be appropriated.

Mr. C. said, that the pacification of the Indian tribes, which was anticipated by the treaties made with them between the years 1787 and 1792, was not accomplished. In the year 1792, the tribes upon the Northwestern frontiers of the United States, from British intrigues, as was then and yet is believed, assumed an attitude of widely extended hostility. Nor was it long before their threatenings terminated in a war, so dreadful in its character, that the people of the Northwest yet have cause to remember it with grief and sorrow. The tribes upon the frontiers of the State of Georgia, as savage in their character, and more formidable in point of numbers, were not much less inclined to hostility. They were subject to the same influence which had been exercised upon their Northern brethren, aided by that of Spain, with which power the United States were at that time in warm dispute, about the navigation of the Mississippi river, and for other causes. The intrigues of Spain were at that time well known, and scarcely denied, as the public documents of the day amply testify. Of this, any gentleman could satisfy himself by consulting the volume of secret documents, lately published. From these causes, Mr. C. said, in the years 1792-3, the situation of the inhabitants upon the Western frontiers of Georgia, was alarming to an indescribable degree. Suffice it to say, as had once before been said upon the same subject, that the peaceable citizen knew not, when he retired to repose, that he would ever awake; or, if he did, that he might not be roused by the horrid yells of the savage war-whoop, and but to behold his helpless family the bleeding victims of the Indian tomahawk and scalping knife.

It was not to be expected, that the Executive of Georgia would calmly behold the blood-chilling scenes of murder and depredation, at that time but commencing upon the frontiers of the State. Had he done so, he would have merited and received the curses of his countrymen and posterity. Fortunately, the Executive chair of the State was then filled by one who was ever feelingly alive to the sufferings of his fellow-citizens. He now reposes in the grave! But his virtues and his patriotism are yet remembered, and his loss deplored. I allude, said Mr. C. to the late Governor Telfair.

Early in the year 1792, he made the necessary communications to the War Department. On the 27th of October of that year, the Secretary at War, by letter, gave him a most ample discretionary power, as the extract following will show: "If the information you may receive, shall substantiate clearly any hostile designs of the Creeks against the frontiers of Georgia, you will be pleased to take the most effectual measures

'for the defence thereof, which may be in your power, and which the occasion may require.'" It is impossible that words better suited to conferring an ample discretionary power could have been used. The Governor of Georgia is constituted the judge of the danger and of the amount of the force. The state of the frontiers required that such a power should be conferred, at that particular time, and it was conferred. It was necessary, because of the uncertainty of the extent to which the Indians would carry their hostility. It was necessary, because of the difficulty, and trouble, and expense, of bringing a militia force into action, none of which should be encountered, if to be avoided without danger.

In acting under this power, the Executive of Georgia acted with caution and prudence. The power was conferred in October 1792. From that time, until the month of April, 1793, the dangers increased, and acts of depredation and murder multiplied on the frontiers. Longer delay of action would have been criminal. On the 23d of April, 1793, Governor Telfair addressed the following letter to John Habersham, then the agent of the United States for furnishing supplies in Georgia: "Sir, the very critical situation to which the frontier settlers are reduced, from the late murders and depredations committed by the Indians, renders it indispensable that means be taken to guard against their inroads. I have made the communications to the War Department, and, in the interim, have to request your issuing orders to the contractors to provide rations for such part or parts of the militia of this State as may be called into service, to be furnished at the several stations and places of rendezvous. In order that you may be informed how far such a measure is correspondent with the system adopted by the General Government, I herewith furnish a certified copy of a clause of a letter from the Secretary of War, dated 27th October 1892," (the one already read,) "on the subject of Indian affairs." Upon the receipt of this letter, with the extract referred to, the agent, Mr. Habersham, had not a doubt as to the powers of the Governor. He conceived them to be so ample, so unbounded indeed, that he did not hesitate a moment to give to the Governor an assurance, that his requisition for supplies should meet with prompt attention. The reply of Mr. Habersham, dated on the same 23d of April, will at once prove this. "Being of opinion," says he, "that I shall be justified by the aforesaid clause in doing so, I shall immediately give directions to the contractor, who is now here, to furnish supplies to such of the militia as may be drawn out under the sanction of your Excellency, and will communicate the same to the Secretary of War, and the commanding officer of the federal troops in this State without delay." Under this power, and under these arrangements with the officers of the United States, the Governor of Georgia proceeded to call the militia into service. Need it be again said, how properly?

Mr. C. said that it was greatly to be regretted, that the pay rolls, which only would afford evi-

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dence of the precise force called into the field, and their time of service, had been destroyed in the conflagration of the public buildings in this city by the British in the year 1814. He was happy, however, to have it in his power to assure the Committee, that, from information which he had received, and which he was disposed to credit, a duplicate of the pay rolls was yet in existence in the State of Georgia. For all the purposes of correct legislation, there was sufficient evidence to be found in certain estimates, which have not been destroyed, and which were calculated from the pay-rolls before their destruction. From these, the names of most of the officers, with the number (without the names) of their men, and the length of their terms of service, could be ascertained. The estimates, together with a letter from the Secretary at War to the Governor of Georgia, show that, at one period, there were from eight hundred to one thousand two hundred militia in the field. The estimates also proved the fact, that the militia were mostly detached for short terms of service, and were discharged when the danger of the frontiers no longer required their services.

Even upon the supposition, that the full number of twelve hundred men had been kept in service from April, 1793, until June, 1794, (at which day they were disbanded,) he thought that he should be able to show to the Committee, that the force was not disproportioned to the danger which threatened. The frontiers of the State of Georgia extended along the borders of two nations of Indians, at that time equally hostile. The whole extent of the exposed frontier was upwards of four hundred miles from the Tugeloo river around the western parts of the State, to the mouth of the St. Mary's river. It is well known, that all that British and Spanish intrigues could do, was done to excite both these nations to a war. North Carolina, South Carolina, and the territory which has since been created into the State of Tennessee, were engaged in an active war, as well of defence as invasion, with the Cherokees and Upper Creeks, to whose ravages the upper parts of the State of Georgia were equally as much or more exposed. On the southern frontier were the Lower Creeks, who had already commenced the work of death and slaughter. The frontier, in its whole length, was but thinly inhabited. Add to all these considerations the fact, that the Governor of Georgia was confined to defensive operations only, and was restricted from prosecuting the war by invading the Creek nation. The fact will be learned from the letter of the Secretary of War to the Governor of Georgia, dated the 30th May, 1793. Had the wishes of Governor Telfair been attended to, upon this subject—had he been permitted to carry the war into the heart of the enemies' country, as he one time prepared to do, and by which only can an Indian war be effectually terminated, this application for so large a sum would not now be made at the hands of Congress. From this measure he was however turned by the positive orders of the War Department in September, 1793. But,

under all these circumstances, Mr. C. thought that the Committee would be convinced, that a less force than the one employed, would have been ineffectual even for the purpose of invasion, and he thought that any one, at all acquainted with Indian warfare, would be convinced, that it would be less effectual for defence. He was also willing to submit to the Committee, whether the Governor of Georgia exercised the discretion and the power conferred upon him in an incautious or imprudent manner.

Soon after the militia was called into service, the power of the Governor of Georgia was suspended, by a letter addressed to him from the Secretary of War, dated on the 30th of May, 1793. This letter is of the most extraordinary character. It declared, "that, from considerations of policy, at this critical period, relative to foreign Powers, and the pending treaty with the northern Indians, it is deemed advisable to avoid, for the present, offensive expeditions into the Creek country. But, from the circumstances of the late depredations on the frontiers of Georgia, it is thought expedient to increase the force in that quarter for defensive purposes. The President, therefore, authorizes your Excellency to call into and keep in service in addition to the regular force stationed in Georgia (which at that time could not have exceeded one hundred, and were of no use) one hundred horse and one hundred foot, to be employed under the orders of Colonel Gaither, in repelling inroads, as circumstances shall require." One hundred horse and one hundred foot to repel the inroads of two of the most savage and warlike tribes of Indians upon the whole continent, on a frontier extending upwards of four hundred miles! Sir, said Mr. C., the destruction and overthrow of such a force would have been but a pastime with the tribes. But it is not now my design to question the propriety of this policy. Before, however, the order could be executed, and the troops disbanded, on the 10th day of June, 1793, only ten days thereafter, the Executive of the United States seems to have been sensible of its impropriety, and, accordingly, in a letter to the Governor of Georgia, he says—"The State of Georgia being invaded, or in imminent danger thereof, the measures taken by your Excellency may be considered indispensable. You are the judge of the danger, and will undoubtedly proportion the defence to exigencies. The President, however, expresses his confidence, that as soon as the danger which has induced you to call out so large a body of troops, shall have subsided, that you will reduce the troops to the existing state of things, indeed to the number mentioned in my letter of the 30th ultimo, duplicates of which have been forwarded, provided the safety of the frontiers will admit the measure." If any doubts could have existed of the power given to the Governor of Georgia, before the receipt of this letter, they were put to rest thereafter. By this, he was expressly made the judge of the degree of danger, and of the number and extent of the force. It contains an acknowledgment of the fact, that

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a large body of troops had been called into service, but considers the measure as having been indispensable. It expresses a hope that the force will be reduced, yet leaving the Governor to judge when the safety of the frontiers will admit the reduction to take place.

After the receipt of this letter the Governor could not have mistaken his powers. To afford complete evidence, however, of this fact, Mr. C. called the attention of the Committee to a letter of the same date, (10th June, 1793,) from the War Department to the Governor of South Carolina, in which he is requested, "that, in case the frontiers of Georgia should be seriously invaded by large bodies of Indians, he would, upon the request of the Governor of Georgia, direct such parts of the militia of South Carolina to march to the assistance of Georgia, as the case might require; for the expenses of which the United States would be responsible." Here again is the Governor of Georgia recognised, as being the judge of the necessity of the call, and clothed with power of making the request of the Executive of South Carolina. But, it also contains evidence of another fact, that the detachment of the force by the order, or at the request of the Governor of Georgia, was at the expense of the United States.

The report of the committee at this session, upon the claim, says, that there is no evidence that this power was conclusively withdrawn from the Governor of Georgia, until February, 1794. There is, however, a letter of the 19th July, 1793, which Mr. Dearborn, Secretary at War, in his report, seems to think contained in it enough to amount to an order, withdrawing the power. This letter was sent by Constant Freeman, who had gone to the State of Georgia as agent of the War Department, for the express purpose of superintending all matters in which that department was concerned on that frontier. This letter contains an express order. Although the Secretary at War must have been apprized of the Governor's proceedings to a period as late as June 18th, of which date he acknowledges to have received letters from the Governor, yet does he bestow no censure for measures already adopted. His power is not withdrawn. The judgment and discretion which he had previously been required to exercise, was not questioned. On the contrary, from the month of September, 1793, until February, 1794, although the Department must have known the numbers and proceedings of the militia, no order was sent to disband the men. On the 22d February, 1794, a positive order was sent, and before 1st of June thereafter, the whole force called out, except certain specified corps, were dismissed. Even this order contains an expression, significant of the belief of the War Department, that the United States were liable for the expenses of the militia in service previous to that time. For it declares, that the United States would not, thereafter, be pledged for the expenses. This can mean nothing else than that the United States held themselves previously pledged; especially as, until that period, the issue of supplies

of provisions had never been prohibited. That the Governor of Georgia did not consider his powers withdrawn is evident. The militia were retained until Governor Telfair went out of office, and for some months after Governor Matthews came into it. Even if the letter of 19th July, 1793, should be considered as an order to discharge the force called out, yet another argument in favor of this claim is to be derived from these facts. The claim is made by the individual persons performing the services, and not by the State. The Governor had power from the General Government to call them into service in the first instance. It was the duty of the militiaman to obey—it did not belong to him to call for the orders issued to his superiors, that he might judge whether his superiors had pursued them; nor ought he to be deprived of his pittance of pay, if his superiors have either neglected or exceeded their orders. If the power, by which he was called out, was, in the first instance, sufficient, his retention in service is not his fault, nor should he be the loser.

But, there are other arguments of the justice of the claim. It is a fact, that the whole force, be their numbers great or small, which was ordered into service by Governor Telfair, was furnished with provisions, and other supplies, by the United States' contractors, during the whole time of service, and his accounts were admitted and paid two years after the troops were disbanded. Certainly this fact, were there no others, would, of itself, be conclusive evidence, that the Executive of the United States considered the militia to have been in their service.

There is another circumstance well worthy of consideration. All other militia in service, during the same period, have been paid by the United States. Those of the Northwestern Territory, (now Kentucky and Ohio,) those of South Carolina, and those of the Southwestern Territory, (now State of Tennessee,) which last were waging a war of invasion, against positive orders, have all been paid by the Government. Upon what principle of justice, then, can the militia of Georgia alone be excluded from the equally hard-earned reward of services equally meritorious?

Sir, said Mr. C., let it not be said that the Governor of Georgia exceeded his authority—I hope I have proved that his authority was ample, and that he did no more than his duty, to the discharge of which he was urged by the very critical situation of the State over which he presided; nor let it be said, that the force detached was greater than necessary, because the murders and depredations of the Indians had in some measure ceased. The truth is, they did not cease, and, if less frequent, it was because of the character and imposing numbers of the force detached. With equal impropriety can it be said, that the State of Georgia is liable for these services. If I am correctly informed, there is not to be found, upon the records of the Legislature of that State, a single act or resolution directing the militia to be called out. The Constitution of the United States had intrusted the General Government with the com-

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mon defence, so that the State there left the payment of this claim. Although frequent application has been made to the Legislature of that State, the claimants have uniformly been referred to the United States—they now, probably for the last time, ask justice at your hands; they can ask for it nowhere else, and they richly deserve it. Many a citizen, now basking in the sunshine of peace, has been saved by their services from an early and a bloody grave; they were ever ready when the hour of danger approached; many of them were soldiers, tried soldiers of the Revolution, and the names of some of the younger part of them are to be found on the list of those who fought and bled under General Floyd in the late war; many have filled, and some yet fill offices of high trust and honor in the State. It remains for this nation to show whether to such men they will any longer furnish a pretext for saying "Republicans are unjust, and my country is a Republic."

Mr. C. said he would not much longer detain the Committee. The sum with which he proposed to fill the blank, was the sum calculated by the Secretary at War to be due for all the services performed, as well by the particular corps of two hundred horse and two hundred foot expressly ordered into service, as by the militia called into service under the general authority given to Governor Telfair in the documents already read to the Committee. It might appear somewhat strange that anything should yet be due to the particular corps expressly ordered; yet it was true that there yet remained unpaid to them the sum of \$13,159 63. "The remaining sum of \$129,375 66," says the Secretary at War, "is for services which were not considered by the Executive of the United States, nor by the agent of the War Department, as fully authorized by the General Government, and for which no payments have been made." The Secretary is of opinion that these services "not fully authorized" ought, in justice, to be paid up for the year 1793. Mr. C. could see no reason why, if they were paid to that time, payment for the full period of service was not equally just. Any principles of justice which would extend to those who served in the latter part of the year 1793, would extend to those who served in 1794.

Mr. STORRS, with a view of giving time for further investigation of the grounds of this claim, moved that the Committee rise; which was agreed to. And the Committee obtained leave to sit again.

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WEDNESDAY, December 31.

Another member, to wit: from South Carolina, JAMES ERVIN, appeared, produced his credentials, was qualified and took his seat.

Mr. TUCKER, of Virginia, presented a petition of the President and Directors, of the Auxiliary Colonization Society, of Frederick county, in the State of Virginia, praying that the plan at present before the National Legislature, for colonizing the free people of color of the United States, may be adopted and carried into effect.—Referred to

the committee appointed on the petition of the representatives of the annual meeting of the society of Friends, in Baltimore.

On motion of Mr. STORRS, the Committee on Public Lands were instructed to inquire into the expediency of providing, by law, for the introduction into all patents hereafter to be issued, for lands sold or granted by the United States, of a reservation, to the use of the United States, of all gold and silver mines.

On motion of Mr. HUNTINGTON, the Secretary of War was directed to lay before this House a return of the arms and military stores furnished to the respective States, under the provisions of the laws of 1808, appropriating, annually, the sum of two hundred thousand dollars "for the furnishing arms and military equipments to the whole body of the militia of the United States;" and also to inform this House on what principle the distribution has been made.

On motion of Mr. HUNTINGTON, the Committee on the Post Office and Post Roads were instructed to take into consideration the expediency of providing, by law, to authorize the Governors of States and Territories, for the time being, to receive and transmit through the post offices all official communications free of postage.

On motion of Mr. TALLMADGE, after a few remarks, explaining that, without some such provision, the widow of the lamented Lawrence would be in a few months utterly destitute of the means of support, it was

*Resolved*, That the Committee on Naval Affairs be instructed to inquire into the expediency of continuing the pension of half pay to the widow of Captain James Lawrence, deceased, during her widowhood; or, in case of its sooner termination, to his infant daughter, until she arrives to the age of twenty-one years.

Mr. ROBERTSON, from the Committee on the Public Lands, who had been instructed to inquire what further provisions are necessary for the more effectual prevention of frauds in the purchase of lands, made a report adverse to any further provisions on the subject.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, reported a bill for the relief of John Anderson, of the Michigan Territory, which bill was twice read and committed.

Mr. EDWARDS offered the following resolution:

*Resolved*, That the President of the United States be requested to cause to be laid before this House information of the number of States which have ratified the 13th article of the amendments to the Constitution of the United States, proposed at the second session of the 11th Congress, [prohibiting any citizen of the United States from accepting or retaining any title of nobility, pension, office or emolument, without the consent of Congress, from any foreign Prince or Power, &c.]

Mr. EDWARDS\* stated that his motion was induced by some doubts whether the article referred to had been ratified by a sufficient number of the States to make it a part of the Constitution, although it appeared as such, he perceived, in the copies printed for the use of the members of the

House; and it was desirable that a fact so important should be placed beyond question. The motion was agreed to without opposition.

Mr. JOHNSON, of Kentucky, submitted a joint resolution to authorize the publication of the laws of the United States within the several States and Territories of the United States, (authorizing the publication in any number of newspapers deemed proper, not exceeding six;) which was twice read, and referred to the Committee on the Judiciary.

The bill for the relief of John Anderson passed through a Committee of the Whole, and was ordered to be engrossed for a third reading.

The House then resolved itself into a Committee of the Whole on the bill to provide for the due execution of the laws of the United States in the State of Mississippi.

To that provision of the bill which fixes the salary of the district judge, as reported by the Judiciary Committee, Mr. POINDEXTER objected, and entered into several statements, exhibiting the arduous duties which would devolve on that officer, and the probable amount of his necessary expenses, to show that the provision proposed for him in the bill was inadequate; and that the subject might be again examined, and more correctly settled by the select committee, who could do so with more ease and facility than could be done in Committee of the Whole House, Mr. P. moved that the Committee rise, and report progress.

The Committee of the Whole then rose and reported progress, and, on the suggestion of Mr. POINDEXTER, was refused leave to sit again; and, on his motion, the bill was then recommitted to the Committee on the Judiciary.

#### INTEREST ON CLAIMS.

On motion of Mr. COLSTON, the House took up for consideration the bill in addition to the act for the relief of John Thompson, [authorizing a review of his claim formerly adjusted and settled, and the payment of such interest as may appear due.]

Some discussion took place on the subject, in which Messrs. COLSTON and RHEA warmly and at some length advocated the equity of the petitioner's right to interest on a claim so just as that on which it was founded.

Mr. HOPKINSON questioned the propriety of allowing the interest in this case, when it had been refused in others equally strong, and so often that it seemed to amount to a rule, and mentioned particularly the case of General St. Clair, who to this day was denied interest on money actually advanced out of his own pocket for the public use.

Mr. JOHNSON, of Kentucky, denied that there was any rule on the subject, or that the practice of Congress was uniform in refusing interest, and he cited the case of the widow of the late Alexander Hamilton, who, not for money advanced by her husband, but only for services rendered, received interest on the amount of her claim.

Mr. COLSTON replied also to Mr. HOPKINSON, and quoted other examples in similar cases, to show that the practice of the House authorized this allowance.

Messrs. SHERWOOD, BAYLEY, WM. P. MACLAY, LIVERMORE, and OGLE, also took part in this discussion favorable to the petitioner; the two first-named gentlemen and the last speaking also on the subject of the case of General St. Clair, which had been incidentally introduced. Mr. OGLE, particularly, protested against the present occupation of the House, spending their time, he said, in hunting for some statute or some bar to the just claim of a man who had, in the Revolution, given all his worldly goods and a part of his blood in support of the independence of his country. And now, in 1817, and on the very last day of the year, after the lapse of so long a time, he was sorry to see the House engaged in searching for precedents to keep this veteran out of his just claim. For his part, Mr. O. said, if there was a statute as strong as brass itself, or as solid as the pillars of the Capitol, he would blow it to powder to do justice to a soldier of the Revolution, and that soldier, too, such a man as John Thompson. As to the case of the aged St. Clair, Mr. O. said that was a subject which ought not to be mentioned in this House in the face of day; the treatment of that man ought to be spoken of here only in the night.

The bill was finally ordered, *nem. con.*, to be engrossed and read a third time.

#### JUDICIAL RECORDS.

After refusing successively to take up the bill to authorize expatriation, and the bill respecting the claims of the State of Georgia for militia services rendered in 1792 and 1793, the House went into a Committee of the Whole on the bill to prescribe the effect certain records and judicial proceedings of the Courts of each State shall have in every State, and in the Courts of the United States.

The bill received some amendments, and considerable discussion took place on its details, in which Messrs. PINDALL, STORRS, STRONG, of Massachusetts, H. NELSON, of Virginia, EDWARDS, BALDWIN, WHITMAN, LIVERMORE, SPENCER, and BEECHER joined.

After the Committee had spent some time on the subject, Mr. CLAY (Speaker) rose, and observing that as—either from its being the last day of the year or from some other cause, he knew not what—the House seemed less interested in this subject than its importance merited, moved that the Committee rise; which being agreed to, the Committee rose, reported progress, and obtained leave to sit again. And the House adjourned to Friday next.

FRIDAY, January 2, 1818.

Another member, to wit: from Massachusetts, TIMOTHY FULLER, appeared, produced his credentials, was qualified, and took his seat.

Mr. SETTLE presented a petition of the Manu-



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mission and Colonization Society of North Carolina, praying that the plan at present before the National Legislature, for colonizing the free people of color of the United States, may be adopted and carried into effect.—Referred to the committee appointed on a petition from the representatives of the annual meeting of the Society of Friends, in Baltimore.

Mr. LOWNDES, from the Committee of Ways and Means, made a report on the petition of Purley Keyes, which was read; when Mr. L. reported a bill for the relief of Purley Keyes and Jason Fairbanks; which was read twice, and committed to a Committee of the Whole.

Mr. WILLIAMS reported a bill for the relief of Abraham Byington; which was read twice, and committed to a Committee of the Whole.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, reported a bill to authorize the payment of certain certificates; which was read twice, and committed to a Committee of the Whole.

Mr. HERBERT, from the Committee for the District of Columbia, reported a bill to provide for the erection of a court-house, jail, and public offices, within the county of Alexandria, in the District of Columbia; which was read twice, and committed to a Committee of the Whole.

Mr. HUGH NELSON, from the Committee on the Judiciary, to which was recommitted the bill to provide for the due execution of the laws of the United States within the State of Mississippi, reported the same without amendment; and the bill was committed to a Committee of the Whole on Monday next.

Mr. HUGH NELSON, from the same committee, who was instructed to inquire into the expediency of altering the third section of the act to establish a government in the Territory of Alabama, made a report thereon; which was read, and ordered to lie on the table.

Mr. NELSON, from the same committee, who was instructed to inquire into the expediency of building offices for the safe-keeping of the records of the district courts, also made a report thereon; which was read and ordered to lie on the table.

Mr. NELSON, from the same committee, who was instructed to inquire into the expediency of increasing the compensation of the marshal of the northern district of New York, made report, which was read, and the resolution therein contained was concurred in by the House, as follows:

*Resolved*, That it is not necessary to increase the compensation to the marshal of the northern district of New York.

On motion of Mr. JOHNSON, of Kentucky, the Committee of Claims were instructed to inquire into the expediency of providing, by law, for extending the provisions of an act, entitled "An act, providing for the payment of claims for property lost, captured, or destroyed by the enemy, while in the military service of the United States, and for other purposes."

On motion of Mr. PINDALL, the Committee on the Judiciary were instructed to inquire into the

expediency of establishing a district court in Virginia, west of the Alleghany mountains.

The SPEAKER laid before the House, a letter from the Secretary of State, communicating his report on the petition of Richard Mitchell, jr. and others; which were read and ordered to lie on the table.

On motion of Mr. LIVERMORE, it was ordered that the Clerk procure to be printed for the use of this House, six hundred copies of a report, bearing date the 20th February, 1800, made by James McHenry, then Secretary of War, on the subject of claims of certain citizens of the State of Georgia, for compensation for military services rendered from the 23d of April, 1793, to the 25th of July, 1794, and all other reports of the Secretary of War on the same subject, together with the documents accompanying the said reports.

The following joint resolution, submitted by Mr. WHITMAN, was read twice and ordered to be engrossed and read a third time on Monday next:

*Resolved*, by the Senate and House of Representatives of the United States of America in Congress assembled, That thirty copies of the laws, passed at the first and second sessions of the Fourteenth Congress, remaining in the office of the Secretary of State, be by him deposited in the office of the Clerk of the House of Representatives for the use of the members thereof.

An engrossed bill, entitled "An act in addition to the act, entitled "An act for the relief of John Thompson," was read the third time and passed.

An engrossed bill for the relief of John Anderson, was read a third time. [This bill proposes to allow to Colonel Anderson \$400, being the amount of two judgments obtained against him for the estimated value of certain private property destroyed by his orders, in the discharge of his duty as an officer of the army, on the Northwestern frontier.]

This bill would have passed without debate, but that Mr. LOWNDES objected to its passing *sub silentio*, lest it might be brought into precedent hereafter, to justify the indemnification of officers for like judgments obtained against them, on the evidence of the judgment merely, without proof of the suits having been duly defended. This suggestion gave rise to an exposition of the circumstances of this claim by Messrs. WILLIAMS, of North Carolina, MCCOY, WALKER, of Kentucky, JOHNSON, of Kentucky, BEECHER, and RICH; from which it appeared that the claim was one of unexceptionable character, and that ample evidence to that effect had been exhibited to the Committee of Claims. There was a motion to recommit the bill, which was negatived by a large majority; and the bill finally passed without opposition.

#### JUDICIAL RECORDS.

The House again resolved itself into a Committee of the Whole, on the bill to prescribe the effect of certain records and judicial proceedings.

This bill, as reported by the Judicial Committee, at the instance of Mr. SPENCER, and verbally amended, provides—

"That the record of any final judgment or final decree, in any suit of any court of any State, when authenticated in the manner required by law, shall have the same effect given to it in every court of the United States, and of every other State, as such record would have by law or usage, if offered as evidence in any other court of the State from which the said record shall be taken: *Provided*, That no such record shall be deemed conclusive against the parties thereto, their heirs, executors, or administrators, or persons claiming under them, or either of them, unless it shall appear on the face of such record that the party against whom such record shall be alleged, his testator, intestate, ancestor, devisee, or grantor, had been personally served with process to compel his or their appearance, in the same suit and in the same court, or that such party had actually appeared in the same suit, and in the same court, before the rendition of the judgment or the passing of the decree: *And provided, further*, That no lien or charge shall be created, by any such final judgment or final decree upon any real or personal estate, situated out of the State at the time when such judgment was rendered or such decree was passed.

"*Sec. 2.* That whenever manupactors, or bail, or sureties for the personal appearance of any person, in any court of any State, shall produce to a judge or justice of some court of record in any other State, the recognizance of bail, or the copy of a bail-piece, or a copy of the instrument by which such manupactors, bail, or sureties, became bound, duly authenticated according to law, it shall be the duty of such judge or justice to certify, upon some part of such recognizance, or copy of a bail-piece, or instrument as aforesaid, that the same is duly authenticated according to law, and thereupon to endorse the same with his own proper hand, with the date of doing so; which certificate and endorsement, with the recognizance, or copy of a bail-piece, or instrument as aforesaid, shall have the same effect to authorize the said manupactors, bail, or sureties, to arrest and take their principal to such other State, and remove him to such place as shall be proper and necessary, for the purpose of surrendering him in their discharge, as the said recognizance, copy of a bail-piece, or other instrument as aforesaid, might or could have by law or usage in the State where such bail was given."

The amendment moved by Mr. STRONG, when the subject was last under discussion, having been withdrawn—

Mr. CONN proposed to amend the bill, so as that all judgments of one State, carried to another State, should be regarded as foreign judgments, and not entitled to the effect they would have in the State in which they may have been rendered.

This motion Mr. C. supported by a variety of remarks and illustrations of the different effects of judgments in the different States, which would produce involvement, and frequently injustice, under the provisions of the bill as it now stands.

Mr. SPENCER opposed the amendment, as going to change the whole principle of the bill. In vindicating the object and the details of the bill, the principal benefit he anticipated from it was, that it would give a confidence and extent to the commercial credit of the country, which it now wanted from the absence of some such provision, which was a great impediment to the increase of the trade between the Atlantic cities and the western coun-

try; the merchant fearing to credit, from apprehended difficulty in the recovery of his debts. If, however, Mr. S. took occasion to say, the passage of this bill had no other effect, it would have the important effect of compelling the parties going with records from one State into another, to make them more formal, and in some measure to correct the loose manner in which too generally the proceedings of our courts are now conducted.

Mr. COBB defended the amendment, and replied generally to Mr. SPENCER, and, particularly, that the formality of proceedings, on which that gentleman had predicated the bill, did not prevail to any extent in the country, particularly in the southern and western States, and that therefore the bill, as it now stands, might occasionally have an improper operation.

Mr. WILLIAMS, of Connecticut, opposed the amendment moved by Mr. COBB. It was not only the dictate of reason, but, he argued, conformable to the spirit and almost to the letter of the Constitution, that judgments obtained in one State should not be mere *prima facie* evidence in another. It was an extraordinary doctrine, he argued, that the decisions of the courts of one State should have no more effect in another, and be no more recognised, than the decisions of any petty foreign court, constituted we know not how—founded on the opinions of we know not whom. The intention of the Constitution was, he contended, and such was the construction formally given to it by the Supreme Court—that the decision of a State Court should be conclusive between the parties, as well in one State as in another.

After some other debate, the question was taken on the amendment, and decided in the negative.

Mr. BALDWIN, expressing himself of the opinion that the same weight ought not to be given to every description of record, moved to amend the bill by striking out the first section, and inserting, in lieu thereof, the following, in which he said he had hastily embodied his ideas of what the law ought to be:

"That the record of any final judgment or decree, given or rendered after the personal service of process on the defendant or defendants, or his or their appearance in any suit of any court of record or chancery of the United States, or of any State or Territory, when authenticated in the manner required by law, shall be *prima facie* evidence of all matters therein contained in every court of the United States, and of every other State and Territory, in any suit, action, or bill brought thereon. And if such judgment or decree shall be rendered after trial by jury, or a hearing on the merits of the cause, then such record shall be conclusive evidence of all the matters and things therein contained in the courts of the United States, or of any State or Territory, in any suit, action, or bill, brought to recover the sum awarded, or the performance of the act or thing adjudged, awarded, or decreed in the judgment or decree originally rendered."

Mr. SPENCER considered this amendment as so essentially varying the bill that he would scarcely object, were it not that the gentleman had acknowledged it to have been hastily penned, and, this bill, he assured him, had been draughted

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with care and attention. He hoped the gentleman would be prevailed on to withdraw his motion.

At this stage of the proceedings, on motion of Mr. DESHA, the Committee rose, reported progress, and obtained leave to sit again.

#### PENSIONS TO WOUNDED OFFICERS.

The following resolution, submitted by Mr. COMSTOCK, was read and committed to the Committee of the Whole to which is committed the resolutions submitted by Mr. JOHNSON, of Kentucky, on the 9th of December last:

*Resolved*, That it is expedient to provide, by law, for placing on the pension list the officers of the Army who have been wounded in battle during the late war with Great Britain.

Mr. COMSTOCK said he did not rise to say much on the resolution he had just had the honor to present. He did not think the occasion required him to go into the subject at any considerable length. But he deemed some explanation of the motives which had induced him to this measure, due to the subject, to the House, and to himself. He hoped, therefore, to be indulged while he proceeded to make a few observations. The House, he said, had not yet to learn that wounded officers of the Army were not placed on the pension list by common usage and design. If a contrary practice had, in a few instances, obtained, as he was informed it had, and some wounded officers of the Army were found on the pension-roll, the fact could be accounted for only in this way: A few wounded officers had availed themselves of the pension laws before the reduction of the Army, shortly after the close of the war. When this reduction was made, a very small number of these were retained in service; no reference having, he presumed, been had, on this occasion, to the list of pensioners. Mr. Speaker, said Mr. C., the services and sufferings of the Revolutionary officers and soldiers have ever been duly appreciated by the people and by their Representatives. It would be casting a dishonorable imputation upon the virtuous and enlightened citizens of the United States, to suppose that they could be unconscious of the exalted merit of those who have endured for them nakedness, starvation, and toil, and braved so many dangers in fighting their battles. Nor did they brave only the dangers of the field; they subjected themselves to the fate of rebels, had the contest been disastrous. Their conduct must have called down upon them the unmingled fury of the regal Government under which they were held. It is true, indeed, said he, that the Revolutionary officers and soldiers have not, in all cases, been sufficiently rewarded. This has been owing partly to the want of means in the Government, and partly, he feared, to an improper procrastination. But I rejoice, said Mr. C., that the day of retribution has at length arrived. On the recommendation of a President whose blood was freely shed in the arduous contest which established our independence, and inspired with the sentiments and feelings of the

venerable reporter and advocate of a bill to reward the few survivors of that contest, we are about to accord to them that assistance which they need, and to which they are entitled by every principle of justice and of gratitude. Mr. C. said he anxiously improved this auspicious period in our history, to invite the House to the subject in question. Mr. Speaker, continued he, it will be recollected that a proposition was made a few sessions since, to bestow a gratuity in land upon the officers of the late army, according to their respective grades.

Some honorable gentlemen were, at that time, unwilling to confer this gratuity, without discrimination, upon those officers who entered the Army just before the termination of hostilities, and who had been constantly employed in the recruiting service, as well as upon those who had endured the privations and perils of the field, in rendering long and signal service to their country. None were found, I believe, said Mr. C., that felt disposed to withhold the bounty of their Government from the latter class of officers; all were ready to reward exalted merit. For myself, said he, it would ever gratify the finest feelings of my heart to aid the passage of any law necessary to do them justice. This, however, said he, may be considered a digression; he merely suggested it to show that no such objection could be sustained against the resolution, or against a bill of which it might be the foundation. The wounded officers of your army have manifested the physical and moral qualities necessary in the soldier. They have largely shared the sufferings and dangers incident to their profession. They have not wasted their time in the pleasures of the ball room, and in the amusements of fashionable circles, remote from fatigue, alarm, and conflicts. They have relinquished their employments and professions, sacrificed their means of acquiring wealth, and, foregoing the endearments of domestic life, have sought the tened field. They have met your enemy, trodden the bloody arena, sustained your eagles, and achieved victory in the jaws of death. They have borne from the plain of battle the laurels of conquest; but have returned, seamed with scars, disfigured by frightful wounds, or deprived of their limbs. In these consist their pretensions as soldiers. In these they exhibit the mournful, yet proud, monuments of their valor and devotion to their country. When contemplating this subject, said Mr. C., a number of names are presented to my view, which I will beg leave to pronounce in your hearing. Among the wounded officers of your army, I behold the names of Majors Larabee, Wetmore, and Birdsall, with Lieutenants Shaler and Wilcox. Major Larabee lost his left arm at the battle of Brownstown, under the command of General Miller. This General, distinguished in so many engagements, I leave, said Mr. C., to the pen of the faithful historian; suffice it to say that his fame is more imperishable than brass or marble. The sensation which the battle of Brownstown produced throughout the Union can never be forgotten.

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Our affairs, at that time, wore rather an unfavorable aspect. When dangers thickened around his Spartan band, their unconquerable spirit rose commensurate with the crisis. They manifested a contempt for danger, and an invincible determination to conquer or to die. They attacked and routed the allied forces of the enemy, drove them from their lodgments, and left the field in triumph. Some of our countrymen were slain; but with the loss of an arm Major Larabee survived, and has ever since continued in the service. The amputation of his limb has not lessened his usefulness. The reports of the Army sufficiently evince his active service. Major Wetmore lost his right arm, in a bold and dangerous enterprise, on the Niagara station, in the first campaign, under the command of an honorable gentleman of this House. Though he has lost a most useful member, he has lost none of that proud sensibility which characterizes the American soldier. He has constantly served, with honorable distinction, in various capacities in the Army. I think, said Mr. C., that I was introduced to this young man when he could reach to me his right hand in the salutation of friendship; but this he can do no more forever. Major Birdsall was dreadfully wounded in the face when the night assault was made on Fort Erie. It had become his duty to dislodge the enemy from the momentary possession of that bastion which was afterwards blown up. A few moments after this awful catastrophe, when he was standing on a twenty-four pounder, very near this fatal spot, dispensing orders to his troops, and cheering them to victory, a ball entered his mouth, carried off almost one half of his lower jaw, and lodged in the lateral and hinder part of the neck. It has, very recently, been extracted. Language cannot express the sufferings he had sustained. Repeated and extensive ulcerations had supervened. The left shoulder, from the continuity of its parts with those wounded and ulcerated, had fallen below its natural position. The dressings for the wound must be removed and renewed several times a day; certainly as often as food is taken, and sometimes more frequently. The constant oozing of the saliva, through the unclosed wound, soon wets not only the dressings, but also the collar and cravat. But, sir, said Mr. C., I must not be too technical and minute in description upon this occasion. We see, however, that sufferings, expense, and trouble have not driven Major Birdsall from the service. He continues, with his acknowledged zeal and ability, to discharge its duties with universal approbation. With Lieutenants Shaler and Wilcox, who were wounded in the campaign of 1814, I have not, said he, the pleasure to be acquainted, nor do I know their particular history. But they are in the Army; and their wounds clearly indicate that they have sought the post of honor, and challenged the esteem and reward of their country. The former has lost his left, and the latter his right arm.

But, Mr. Speaker, the allowing of an officer pay and pension at the same time, may be conceived

inadmissible. It may be said, that an officer entitled to a full pension according to his rank must be totally disabled, and by consequence incompetent to afford efficient service to his country. Mr. C. said, the words "total disability," used in the pension laws, are indefinite in their meaning. The phrase, he said, was obviously relative. If the words were taken in their most extensive and unqualified sense, they would import death itself, or something approaching near that state. For, if a man possessed only a very small share of corporeal and mental power, he could exercise it in some way towards procuring a livelihood. Nevertheless, an officer deprived of an arm, leg, or eye, is totally disabled in the view of the laws, judging from the interpretation they have received in practice, and is therefore entitled to a full pension, in proportion to his grade. But will it be contended that these injuries, essential as they are, disqualify an officer to discharge the duties devolved upon him? I trust not, sir, said Mr. C. I do not conceive that the being able to shoulder a barrel of cider, or to chop off logs, is an important qualification in an officer. Lord Nelson did not possess the physical ability necessary to accomplish such things when he fought those battles that have ranked him among the most illustrious of naval heroes, and gilded the pages of British history.

Sir, said Mr. C., would a pension make the condition of the officers I have named more eligible than if they had never been wounded? Surely not. What value shall be put on the wounds of these officers? What is the amount of the inconvenience, expense, and torture, which they have borne, and continue to sustain? Would they have bartered their active limbs for a pension? No, sir; they risked more than their limbs, when, inspired by nobler motives, they took up arms and fought for their country! Their talents and good conduct have continued them in the Army. They are able to serve you in peace or in war; and, should you place them on the pension roll, how can it be shown that this act of sheer justice ought to exclude them from a participation in military employment and promotion?

Mr. Speaker, the war is ended; the din of arms does not continue to salute our ears; our eyes are no longer pained with beholding garments rolled in blood. We are prone to forget these things; but the wounded soldier, and those who depend on him for protection and support, have much reason to remember them. Though our wounded officers of the Army are not disqualified for military service, their habits, and the loss of former business and employments, have disqualified them for other pursuits.

Mr. Speaker, let us accord honor and assistance to the brave!

"All things are common, but the warrior's fame:  
That glows eternal in the mouths of men."

In anniversary orations and songs we are called "a band of brothers." Let us evince by our conduct the sincerity of our fraternal affection. I am unwilling to join in these professions, if they are

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unmeaning. It is not enough to say to a naked and hungry brother, "Be thou clothed and fed." Tears of sympathy should bedew our cheeks, and streams of munificence should issue from our hands. Sir, said Mr. C., it is not among the least blessings of a republican Government that its burdens are equally borne, and its advantages equally enjoyed. Let us, Mr. Speaker, do equal and exact justice to every class of citizens. Then our free institutions, based in the affections of the people, shall manifest to the latest ages the memorials of Columbian wisdom and valor. I hope, said Mr. C., that the resolution will be referred, and that something may result from it beneficial to the wounded officers of the Army, and honorable to the nation. I hope that Government will at least place them above embarrassment, and enable them to support themselves, and those whom Providence may have committed to their care and protection. It must gratify every benevolent heart to see the children of the wounded defenders of their country's rights enjoying those social advantages which the gallantry of their fathers has nobly contributed to secure and perpetuate.

Adjourned to Monday.

MONDAY, JANUARY 5.

Mr. ROBERTSON presented the petition of the Mayor Aldermen and inhabitants of the city of New Orleans, praying, that in any sale of the vacant and unimproved grounds, within the said city, their rights may be respected, by reserving from sale such parts thereof, as have been, from the first settlement of the place used in common for the health and convenience of the inhabitants of said city.—Referred to the Committee on the Public Lands.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a list of persons who have been placed on the pension roll of the United States, transmitted in obedience to a resolution of the 17th ultimo; which was ordered to lie on the table.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a list of persons who have been added to the pension list of the United States since the 28th of May, 1813, transmitted in obedience to a resolution of the 18th ultimo; which was ordered to lie on the table.

The SPEAKER also laid before the House, a letter from the Secretary of War, transmitting an account of moneys transferred during the late recess of Congress, from one specific appropriation to another, showing the application of the same; which was referred to the Committee on Public Expenditures.

The SPEAKER also laid before the House, a letter from the Secretary of War, transmitting statements of the expenditure and application of all such moneys as have been drawn from the Treasury by him, for the year ending 30th September, 1817; which was ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of William Edwards and John G. Stubbs," in which they ask the concurrence of this House.

An engrossed resolution "Directing the procurement of certain laws," was read the third time, and passed.

Mr. ROBERTSON, from the Committee on Public Lands, who were instructed to inquire into the expediency of advancing the price at which the public lands are held for sale, made a report on that subject, concluding with a recommendation to the House to adopt the following resolution:

*Resolved*, That it is inexpedient at the present time to increase the price of those public lands required to be sold.

The report was read, and ordered to lie on the table.

Mr. ROBERTSON, from the same committee, to whom was referred the petition of Edmund Dana, and others, praying to be allowed to purchase a considerable body of public lands on certain accommodating terms, reported unfavorably there-to. The report was read, and concurred in.

Mr. FORSYTH, from the Committee on Foreign Relations, reported a bill in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned. The bill was twice read.

Mr. HOLMES, of Massachusetts, from the select committee appointed to consider the subject, reported a bill allowing compensation to the members of the Senate and House of Representatives of the United States.—[The bill fixes the compensation at the rate of nine dollars per diem, and nine dollars for every twenty miles travelling to and from Congress.] The bill was twice read, and committed.

Mr. FLOYD, of Virginia, from a select committee, reported a bill to extend the privilege of franking to the vaccine agents of States and Territories, which was twice read, and committed.

Mr. JOHNSON offered for consideration the following resolutions:

*Resolved*, That the committee on the subject of the militia be instructed to inquire into the expediency of providing by law for organizing the general staff of the militia of the several States, upon the principle of the general staff of the Army of the United States, as far as practicable.

*Resolved*, That the committee on the subject of the militia be instructed to inquire into the expediency of providing by law a system of military discipline for the militia of the several States and Territories.

Mr. JOHNSON said, it was generally known that a very great and radical difference existed between the militia staff and the staff of the Army of the United States; and he was anxious to bring the question before the committee on the subject of the militia, that one might be made to conform to the other as far as practicable. There was another subject of great importance, in his opinion, and that was the want of

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some uniform system of military discipline for the militia of the several States. For, within a very few years, the Army of the United States had been governed in its discipline by Steuben, by Duane's Infantry and Riflemen, by Smyth's Infantry, and now by a late compilation by a court martial, which applies chiefly to the infantry discipline. In the meantime, no regular system had been adopted for the militia, and he thought it was time that we should discharge the duty imposed upon Congress by the Constitution of the United States, by fixing upon a mode of uniform discipline for the militia of the several States.

The motion was agreed to.

Mr. JOHNSON, of Kentucky, moved that the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of increasing the salary of the Postmaster General.

Mr. J. said, he looked at the great responsibility and increasing duties of this officer, and he was anxious to bring the subject before the proper committee; that many years had elapsed since the salary was fixed at its present rate. It was well known that the Postmaster General had the appointment of postmasters in various parts of the United States, amounting to nearly the number of four thousand; that the contractors and other agents appointed and selected by him amounted to about one thousand; and the revenue, independently of defraying the expense of the establishment, had averaged about one hundred and fifty thousand dollars per annum. In making this motion, Mr. J. said, he looked to these important duties, and the high responsibility of the Postmaster General; but had he taken into consideration the personal merits of the officer, and his faithful discharge of his various duties, his opinion would be confirmed, that no officer in the Government was entitled to greater consideration by the House.

On motion of Mr. MIDDLETON, the Committee on the Judiciary were instructed to inquire into the expediency of making compensation by law to the honorable William Johnson, jr., one of the associate judges of the United States, for extra services, he was called upon to perform during the inability of the late district judge of South Carolina.

The engrossed bill to incorporate the Columbian Insurance Company of Alexandria, was read a third time, and passed.

#### OHIO CONTESTED ELECTION.

Mr. TAYLOR, of New York, from the Committee on Elections, to whom was referred the petition of C. Hammond, contesting the election of Mr. HERRICK, a member of this House from the State of Ohio, on the ground of his having held an office under the United States, subsequent to the fourth day of March last, made a report; which was read, and referred to a Committee of the Whole. The report is as follows:

That on the 19th December, 1810, Mr. Herrick was appointed Attorney of the United States for the district of Ohio, which office he accepted, and held until his

resignation thereof, on the 29th November, 1817. In October, 1816, he was elected one of the Representatives of the State of Ohio, for the Fifteenth Congress. The result of the election was publicly announced on the 7th January, 1817, in the presence of the Senate of that State. On the 15th September, 1817, the Governor executed a certificate of Mr. Herrick's election, according to the law of Ohio, which was received by him on or about the 30th day of the same month. Mr. Herrick, therefore, continued in office almost nine months after the fourth of March last, and two months after receiving the certificate of his election. It does not appear, on the part of the memorialist, and it is denied, on the part of Mr. Herrick, that he performed any act as Attorney of the United States, after the said 30th September. He, however, continued in office, was liable to perform its duties, and was entitled to its salary, until his resignation. Congress met December 1, 1817, and Mr. Herrick took his seat, on that day, in the House of Representatives.

The 6th section of the first article of the Constitution provides, that "no person holding any office under the United States shall be a member of either House, during his continuance in office." The incompatibility is not limited to exercising an office, and at the same time, being a member of either House of Congress; but it is equally extended to the case of holding; that is, having, keeping, possessing, or retaining, an office, under such circumstances. If the membership of Mr. Herrick commenced either on the 4th of March or the 30th of September, 1817, he has vacated that membership by holding an office incompatible therewith.

We do not find that the question of incompatibility has been agitated in the House of Representatives on more than two occasions. The first case was that of John P. Van Ness, which occurred during the second session of the Seventh Congress. The Committee of Elections were then instructed to inquire whether Mr. Van Ness, one of the Representatives from the State of New York, had not, after his election, and after he had occupied a seat of a member, accepted and exercised the office of a major of militia, under the authority of the United States, within the Territory of Columbia. Mr. Van Ness freely admitted the fact, as alleged, and thereupon the House unanimously resolved that he had thereby forfeited his right to a seat as a member of the House.

The other case was that of Philip Barton Key, decided at the first session of the Tenth Congress. Mr. Key's seat was impeached, among other grounds, upon this: that, at the time of his election, and until a few days, either before or after he took his seat, he held, from the British Government, in his own right and name, the half-pay pension of a captain of infantry. The facts were briefly these: Mr. Key served as an officer in the British army, without the limits of the United States, from 1778 until 1783, when the corps to which he belonged was disbanded, and the officers placed on half-pay. The pension was paid, either for the benefit of himself or his assignee, until the month of December, 1805, when he received six months half-pay: in January, 1806, he wrote to his agent in London, directing him to resign his claim to half-pay, and also to rank, if any could be supposed to exist; but it did not appear that anything had been done in pursuance of that letter, nor indeed that it ever had been received by his agent.

On the 6th of October, 1806, Mr. Key was elected



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a Representative of the State of Maryland, for two years, commencing on the fourth of March, 1807. On the 24th of October following, he addressed a letter to Mr. Erskine, then His Britannic Majesty's Ambassador at Washington, referring to the letter written to his agent, and repeating his resignation in a formal manner. This letter was not delivered to Mr. Erskine until the 28th or 29th of October, which was two or three days after the meeting of Congress, and after Mr. Key had taken his seat in the House of Representatives. Upon these facts the House decided that Mr. Key was entitled to his seat.

In regard to the several cases of Messrs. Turner, Dawson, and others, mentioned in the answer marked C, filed by Mr. Holmes, on the part of Mr. Herrick, we think a single remark sufficient. It does not appear that the House of Representatives was made acquainted with the existence of these cases. It cannot, therefore, be considered to have acquiesced in that of which it was ignorant.

The decisions of the House of Commons, under the statutes 5 William and Mary, chap. 7; 11 William III., chap. 2; and 12 and 13 William III., chap. 10, may serve to shed some light upon the subject under consideration. The first of these statutes enacts that no member of the House of Commons shall, at any time, be concerned, directly or indirectly, or any other in trust for him, in the framing, collecting, or managing, any of the duties granted by that or any future act of Parliament, except the commissioners of the Treasury, and the officers and commissioners for managing the customs and excise. The second act extends the disqualification to officers of the excise, declaring them incapable of sitting, voting, or acting as members; and the last mentioned act applies the same provisions to all officers of the customs.

Many members of the House of Commons were, at different times, expelled for violations of these statutes; but the facts are reported in terms so general, that it is impossible in most cases to determine whether the offence was committed before or after the member took his seat in the House. We find, however, two cases where the particulars are stated. The first case was decided on the 13th February, 1698, under the act above mentioned of the 5 William and Mary. It is the case of Mr. Montagu; and it is stated as follows by Hatsell, in his precedents of proceedings in the House of Commons. The new Parliament was made returnable on the 24th of August, 1698, and was directed to sit for the despatch of business on the 29th of November. Mr. Montagu had been a commissioner of stamp duties, but, in the commission which passed in September, 1698, he was left out; it appeared that he had acted under the former commission till the 4th of October, 1698. But, having informed the House that he did not qualify himself as a member till the 29th of November, and so conceived himself not to be within the law, he is, upon the question, called in to take his place, and a committee is appointed to draw up and state the matter of fact. It does not appear that the committee ever made report.

The other case is reported as follows: On the 5th of February, 1708, Sir Richard Allen was, on the hearing of his petition, declared to be duly elected for Dunwich. On the 7th of February he surrendered an office in the customs for life, to which he had been appointed in May, 1678. On the 8th of February, this surrender is enrolled, and on the 9th of February, he desires the sense of the House, before he takes his seat, on the clause of the 12 and 13 of William III., chap.

10, which relates to the officers of the customs: and, upon reading the letters patent and surrender, he is permitted to take his seat.

Persons elected to the House of Commons become at one time members for certain purposes, and at another time for other purposes. Thus, immediately upon executing the indenture of return by the sheriff or other returning officer, the person elected becomes entitled to the privilege of franking, although the day at which the Parliament is made returnable may not have arrived. Yet he is not a member, for he may thereafter be a candidate for election in another district, at any time before the Parliament is made returnable, and the return actually filed in the Crown Office. From the time last mentioned, he becomes a member so far that he cannot be a candidate for another district, but yet may thereafter hold an office incompatible with membership, and upon resigning his office, he may immediately qualify and take his seat in the House. It has often been decided by their Committee of Elections, that a person holding an office incompatible with membership is, nevertheless, capable of prosecuting his claim to a seat. After examination of all the Parliamentary registers, histories, and journals within our reach, we have found no case where a person elected to the House of Commons was brought in on a call of the House, before he had voluntarily appeared, qualified, and taken his seat, nor do we find any instance of a person having been expelled until after such time.

A very particular case occurred on the 10th of February, 1620: Sir John Leech having been duly elected a member of the House of Commons, and appearing to take the oaths of allegiance and supremacy, was asked, whether he had not already sat in the house of that Parliament, in violation of the statute. He confessed that, on the Wednesday morning previous, he did sit in the House a quarter of an hour being unsworn. For this offence Sir John was not expelled, but it was resolved that he was disabled to serve in the House; and a new writ of election was issued to supply the vacancy, in the same manner as if no election and return had taken place. The same course of proceeding has been pursued when a person, duly elected and returned, comes into the house and refuses to be sworn. Such was the case of Mr. Archdale, in the year 1698, who, being elected and returned, came into the House of Commons and said, he was ready to serve if his affirmation of allegiance could be accepted instead of his oath. The House resolved that it could not. Mr. Archdale, still declining to take the oath, was refused admittance to a seat, and a new writ was issued to supply his place. This case is more peculiar, because a person elected to the House of Commons, cannot relinquish his right to a seat either before or after qualification, otherwise than by accepting an incompatible office. But by refusing to be sworn, he may do that indirectly which he is not permitted to do directly. We have seen several similar cases which occurred in the Colonial Assembly of New York, but not now having access to the journals, we are unable to report the particulars.

Persons elected and returned to the House of Commons may be chosen members of committees before they appear and qualify. But it is allowed for a reason similar to that which, in courts of law, permits a declaration to be filed *de bene esse* before the defendant appears in court. In both cases the act is conditional; and it is ineffectual, unless the condition of appearance be performed.

The practice of this House, which does not allow the

appointment of persons to be members of committees, until they shall have taken their seats, is obviously more reasonable and convenient than the other. It was decided, as early as the first session of the second Congress, in the case of John F. Mercer, who was chosen to supply a vacancy in the representation of the State of Maryland, occasioned by the resignation of William Pinkney, that a representative elect might decline his election before taking a seat, and before the first session of the Congress to which he was elected. We do not find that the question has since been agitated, although similar cases have often occurred. Our rule in this particular is different from that of the House of Commons; it is also better, for it makes our theory conform to what is fact in both countries, that the act of becoming in reality a member of the House, depends wholly upon the person elected and returned. Election does not of itself constitute membership, although the period may have arrived at which the Congressional term commences. This is evident from the consideration, that all the votes given at an election may not be received by the returning officer in season to be counted, whereby a person not elected may be returned, and take the seat of one who was duly elected. Neither does a return necessarily confer membership, for if he in whose favor it be made should be prevented taking a seat at the organization of a House of Representatives, he might find, upon presenting himself to qualify, that his return has been superseded by the admission of another person into the seat for which he was returned.

At an election, held in the State of Georgia, in October, 1804, Thomas Spalding was duly chosen a Representative to the Ninth Congress; but because the votes of three counties were not returned to the Governor, within twenty days after the election, Cowles Mead received a certificate, and took his seat. Mr. Spalding afterwards presented his petition. The House vacated Mr. Mead's seat, and admitted Mr. Spalding.

In April, 1814, Doctor Willoughby was elected a Representative of the State of New York, to the Fourteenth Congress; but by reason of a clerical error, of certain inspectors, in returning certificates of votes to the office of the county clerk, General Smith was declared duly elected, and a certificate of election was accordingly delivered to him; but he having omitted to take a seat at the commencement of the session was, on the ninth day thereafter, declared not entitled, and thereupon Doctor Willoughby was admitted in his stead.

Several other cases might be cited where persons were returned, who never in fact became members, and where others became members who were not returned. Neither do *election and return* create membership. These acts are nothing more than the designation of the individual, who, when called upon in the manner prescribed by law, shall be authorized to claim title to a seat. This designation, however, does not confer a perfect right, for a person may be selected by the people destitute of certain qualifications, without which he cannot be admitted to a seat. He is, nevertheless, so far the representative of those who elect him, that no vacancy can exist until his disqualification be adjudged by the House. Yet it would be easy to state cases where he would not be permitted for a moment to occupy a seat, notwithstanding the regularity of his election and return. To no practical purpose could he ever have been a member. So also if a person duly qualified be elected and returned, and die before the organization of a House of Representatives, we do

not think he could be said to have been a member of that body, which had no existence until after his death. We say which had no existence; for we consider that conceit altogether fanciful which represents one Congress succeeding to another as members of the same corporation. It has no foundation either in fact or in the theory of our Government. Each House of Representatives is a distinct legislative body, having no connexion with any preceding one. It commences its existence unrestrained by any rules or regulations for the conducting of business, which were established by former Houses, and which were binding upon them. It prescribes its own course of proceeding, elects its officers, and designates their duties. Even joint rules for the government of both Houses of Congress, are not binding upon a new House of Representatives, unless expressly established by it. Although the Fourteenth Congress had never assembled, the Fifteenth would have met under the Constitution, clothed with every legislative power, as amply as it was enjoyed by the Thirteenth. The Constitution does not define the time for which Representatives shall be chosen. It is satisfied, provided the choice take place at any time in every second year. The rest is left to the discretion of each State. Accordingly, in some States Representatives are usually chosen for one year and seven months, and in other States for a longer time.

The privilege of exemption from arrest, granted by the Constitution to Representatives before a meeting of the House and after its adjournment, furnishes no argument in favor of their membership at such times. Exemption from arrest is a privilege as old as the Parliament of England. There it is extended not only to members, but to their servants, horses, and carriages. Our Constitution adopts the very words of the common law, but restricts the privilege to members. In both countries the object is the same, not the benefit of the member, but of the public service. It is an essential incident to the right of being represented, and a consequence of that right. But that membership is not coextensive with the enjoyment of that privilege is manifest, from the consideration that such a construction might make the members of one Congress continue in office, not only after the Congress had expired, but also after the next Congress was actually in session. This construction, therefore, is not only absurd, but it serves to illustrate the fallacy of that suggestion which fancies the Representatives of one Congress succeeding to the seats of their predecessors as members of the same corporate body.

The privileges of franking letters and exemption from militia duty, are not granted by the Constitution. They are established by law, and liable to be changed at the will of the Government. They have been extended and may be restricted as public convenience shall require. Previous to the last Congress, the privilege of franking was not enjoyed until after the commencement of each session. But as that does not prove negatively that persons elected to the House of Representatives, were not members before that time; so the existing law does not prove affirmatively that they are. It is true that the words "*members of the House of Representatives*," are used as descriptive of the persons to whom the privilege is granted, but it certainly was used without intending thereby to express an opinion, much less to decide, when membership commences, and probably without in any wise advertent to that inquiry. The late war had created claims in every part of the country, which it was found convenient to send by mail to those who were elected

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to Congress in the several districts, previous to their leaving home. The law was passed with a view to the convenience of these public claimants, as well as to that of the Representatives elected. We have seen that in England this privilege is enjoyed before the commencement of membership, and probably for a reason similar to that abovementioned.

It is not now necessary to inquire what construction ought to be given to the act which exempts "members of both Houses of Congress" from the performance of militia duty. We do not know that it has ever received a judicial exposition, and we presume that the practice under it, by the officers of the militia, furnishes no very high authority on the Constitutional question before us.

In regard to the danger apprehended from Executive influence in the concerns of legislation, we might rest satisfied with the remark that the business of forming a constitution is not confided to us; ours is a more humble duty, it is to expound the text by a fair interpretation; we can neither add nor diminish; the object of our inquiry is, not what ought to be, but what is.

Whoever looks into the Constitution will find provisions to guard the entrance of the legislative hall against those whose personal and immediate interest would be advanced, by perpetuating offices and increasing salaries; but he will find none for the purpose of excluding the influence of Executive patronage. The framers of the Constitution either did not apprehend danger from that source, or they thought it impracticable to prevent it without hazarding still greater mischief. The great offices of the Union are objects of high and honorable ambition; they are left as open to the members of this House as to others, and they can only be obtained through Executive favor. Nay, laws may be passed on the last day of a Congress creating offices and fixing their salaries, and on the next day the members, by whose votes they were created, may be appointed to fill them. The only antidote provided against an abuse of this pervading influence is the elective franchise. No dependant on the Executive can take a seat in this House. If any member become such, his seat is vacated, his power returns to the people. By a faithful and intelligent exercise of it, they may correct errors and punish delinquency. This is the regenerating principle of the Constitution. If this remedy fail, it will be in vain to look for another. The Constitution was provided for a brave, wise, and virtuous people. If the citizens of the United States ever cease to deserve this character, our present political institutions will be found unsuited to their condition. This is the only Constitutional answer we can give to the suggestion of possible danger from Executive influence.

In fine, we have examined the memorial of Mr. Hammond with deliberate attention, and are of opinion that Mr. Herrick has not rendered himself incapable of being a member of this House, by reason of having held the office of Attorney of the United States after the 4th of March and until the 29th of November last. We subjoin hereto the said memorial marked A, Mr. Herrick's answer, marked B, and also an answer filed by Mr. Holmes on the part of Mr. Herrick, marked C, and respectfully submit the following resolution:

*Resolved,* That Samuel Herrick is entitled to a seat in this House.

The following is the petitioner's memorial:

*To the honorable the Senate and House of Representatives of the United States of America in Congress assembled.*

The memorial of the undersigned, a citizen of the United States, and a resident and elector in the fourth Congressional district of the State of Ohio, respectfully represents:

That at the general election held in the State of Ohio, in the month of October, in the year 1816, Samuel Herrick, Esq., was duly elected to represent the fourth Congressional district of the State of Ohio, in the Fifteenth Congress of the United States. That on the 7th of January, 1817, agreeably to the laws of said State, he was declared duly elected by the Governor and Secretary of State, in the presence of the Senate of said State. That he has obtained a certificate of his election, has appeared and taken the oaths required by law, and now holds and occupies a seat in your honorable body, as one of the Representatives of the State of Ohio.

Your memorialist further sheweth, that, at the time Mr. Herrick was elected a member of the House of Representatives, he held the office of United States district attorney for the Ohio district, which office Mr. Herrick continued to hold, and continued to perform the duties thereof, and to receive the compensation attached thereto, until the month of September, in the year 1817; nor is it known to your memorialist that Mr. Herrick has yet resigned the said office.

Your memorialist further sheweth, that the office of United States district attorney is an office created by a law of the United States, and the persons appointed to discharge the duties of said office are nominated and appointed by the President, by and with the advice and consent of the Senate of the United States, and hold their offices during the pleasure of the President, and, besides perquisites of office, receive an annual compensation from the Treasury of the United States.

Your memorialist further sheweth, that by the sixth section of the first article of the Constitution of the United States, it is, among other things, provided and declared that "no person holding any office under the United States shall be a member of either House (of Congress) during his continuance in office."

It is conceived that the Congress of the United States is a political institution of continual duration. Composed of the President, the Senate, and the House of Representatives, it must always be in existence while the Government exists. The members of all its component parts, though appointed for different, are still appointed for determinate periods. The moment the term of the predecessor expires, that of the successor commences, unless for some cause such successor had not been elected in the manner pointed out by the Constitution. The commencement of every term is upon the 4th of March, that of the President every fourth, that of the Senate every sixth, and that of the House of Representatives every second year. And although it may possibly happen that the seat of a single member, or the representation of one or more States, may be vacant, yet this fact cannot possibly affect the continual existence of the institution itself, for if the Congress once ceases to exist, the Government must from that instant be terminated.

As the members of the House of Representatives are appointed for but two years, and the other branches are appointed for a longer period, the election of a new House of Representatives is considered as con-

stituting a new Congress. The present Congress is denominated the 15th Congress of the United States : but this description must be referred to the members who compose the Congress, and not to the institution itself. Though, at the end of the biennial term of the Representatives, that branch of the Congress becomes necessarily disorganized ; still the Congress exists. The other branches are in complete organization, and the members of the representative branch are legally in existence, ready to be organized should occasion require it.

All the rights and all the privileges of their station attach to the members elect, the moment their term commences. There can be no space of time between the termination of one Congress and the commencement of another. The Fifteenth Congress existed on the 4th of March, 1817, as certainly as it now exists. The members of the Senate and of the House then elected, but who had not qualified themselves to act by taking the necessary oaths, were, notwithstanding this fact, members of Congress. The terms of Mr. Otis, in the Senate, and of Mr. Herrick, in the House, commenced at the same instant of time. Both were members: the President's proclamation convening the Senate, called Mr. Otis to the immediate performance of his duties ; but it could not constitute him a member of Congress. A proclamation convening the House of Representatives would have operated in the same manner upon Mr. Herrick ; and certainly, notwithstanding that the States of Virginia and North Carolina had omitted to appoint their representation, the President could have called the Fifteenth Congress to meet upon the 4th day of March, 1817.

An opinion seems to have prevailed, that a person elected a member of Congress is not, in fact, a member until he shall have declared his acceptance of the appointment, by taking the oaths necessary to qualify him to discharge his duties on the floor. This opinion assumes that, although the appointment is complete, and the term commenced, still the seat remains vacant until the person appointed shall signify his pleasure upon the subject. This position is regarded as wholly untenable.

Either Mr. Herrick was a member of Congress on the 4th of March, 1817, or he was not a member. If he was a member, there could be no vacancy ; if he was not a member, by what authority does he now occupy his seat ?

The Constitution of the United States provides, "that the times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof;" and it also provides that "when vacancies happen in the representation from any State, the Executive authority thereof shall issue writs of election to fill such vacancies." On the 14th of February, 1812, the Legislature of Ohio prescribed that, on the second Tuesday of October, 1812, the electors in that State should elect suitable persons to represent that State in Congress, for a term of two years, to commence on the 4th day of March, 1813 ; and they further prescribed, "that at every period of two years, from the said second Tuesday of October, the electors of each Congressional district in that State shall, in like manner, vote for a suitable person to represent that State in the Congress of the United States, for the term of two years, to commence on the 4th day of March next thereafter."

Under these provisions of constitutional and statute law, on the second Tuesday of October, 1816, Mr.

Herrick was elected to represent the State of Ohio in Congress, for the term of two years, to commence on the 4th day of March, 1817. By this election the Constitution of the United States, and the law of Ohio, were completely executed. Their office was performed, and no election could be held, except to fill a vacancy, until the recurring term of two years. If, after this, Mr. Herrick should die before the meeting of Congress, the Executive must issue his writ to supply the vacancy ; and it seems difficult to comprehend how, if Mr. Herrick never was a member of Congress, his death could leave a vacancy to be filled by special election.

That persons elected members of Congress are legally members before they qualify by taking the oaths, is evident, from the practice under the Constitution, in various particulars. It is provided, by the sixth section of the Constitution, that the members of Congress shall be privileged from arrest in certain cases, during their attendance at the session, and in going to and returning from the same. This privilege attaches to the members before they take the oaths, when going to attend the first session after their election. If they were not members until the oaths were taken, this could not be the case.

The militia law of the United States exempts "the members of both Houses of Congress" from the performance of militia duty. This exemption has always been considered as attaching to the members from the commencement of their term. And, in like manner, the privilege of franking is claimed and exercised by the members elect before they take their seats. In the cases here enumerated, the practice is undoubtedly predicated upon the hypothesis, that the persons elected to Congress are members from the commencement of their term.

If, then, according to the Constitution, the person elected a member of Congress becomes a member upon the day at which his term commences, your memorialist conceives that upon that day he must be capable, under the Constitution, of occupying his seat in the proper House. A person holding upon that day an office under the United States is not thus capable. On the 4th of March, 1817, Mr. Herrick held the office, and received the emoluments of United States district attorney for the Ohio district. This is an office under the United States, and the Constitution expressly declares, that "no person holding any office under the United States shall be a member of either House of Congress during his continuance in office." He shall not be a member. If Mr. Herrick was not a member while he held his office, he cannot now be a member. If he was a member, and at the same time held an office under the United States, it would seem that the Constitution is inoperative in his particular case.

The language of the Constitution is clear and explicit. It did not mean to prohibit a person from performing the duties of a Senator or Representative, and the duties of any other office at the same time. Its object was to render the holding of an office under the United States, and the appointment of a member of Congress, utterly incompatible. The interpretation by which Mr. Herrick can hold his seat, permits him to be a member of Congress, to enjoy the privileges and exemptions of a member of Congress, and to continue for nine months afterwards, and longer if he pleases, to hold and receive the emoluments of an office under the United States. Your memorialist most respectfully begs leave to insist that this interpretation

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never was contemplated by the framers of that instrument. Its purposes cannot be mistaken. It intended, by shutting out from both Houses the dependants and the creatures of the Treasury, to close the doors of the Legislature against undue Executive influence. And this was done to preserve the American Congress from the baneful consequences of that indirect and invisible system of bribery which corrupted and disgraced the British Parliament.

The provision of the Constitution occasions an absolute incapacity. A person elected to Congress, who, after the commencement of his term, continues to hold or accepts an office under the United States, is incapable of membership in the one case, and in the other vacates his own seat. Adopt a different construction, and Congress may soon be filled with men who receive Executive appointments after their election, and resign them only long enough to serve Executive purposes in the Legislature. Surely it cannot be necessary in an upright, intelligent, and enlightened legislation, that Congress should strain for an interpretation of the Constitution, by which they may retain among them as members men so fond of distinction, or so greedy of gain, as to place themselves upon a level with the menial instruments of the most corrupt Government upon earth. For here your memorialist must beg leave to suggest, that it can seldom happen that a high-minded and honorable man would wish to retain an employment under those whom, in discharging a trust of great confidence, he may soon be compelled to oppose or control.

The view which your memorialist has taken of this subject, carries conviction to his mind that Mr. Herrick, by retaining his office, rendered himself incapable of a seat in Congress; that, consequently, he has, by his own act, vacated his appointment, and has no right to a seat in your House. Your memorialist, therefore, prays that your honorable body will examine into the matters herein alleged, and that you will vacate the seat now occupied by Samuel Herrick, Esq., as a Representative in the fifteenth Congress from the fourth Congressional district in Ohio.

And your memorialist will pray, &c.

C. HAMMOND.

LETTER OF MR. HERRICK.

To the Hon. Mr. TAYLOR,

Chairman Committee of Elections :

SIR: The question submitted for the consideration and report of the committee is, whether a person elected a Representative to Congress on the second Tuesday of October, 1816, received the certificate of his election about the 1st day of October, 1817, and who has held the office of Attorney of the United States, before and after the 4th of March, and down to the 29th of November, 1817, and no longer, is entitled to his seat as a member of Congress in the House of Representatives on the first Monday of December following, under the Constitution of the United States, or not. This is the question, and those are the facts which make the case for the report of the committee. I am thus particular in stating the facts which make the case, in order that it may be decided upon its own peculiar merits, unconnected with the facts and circumstances which may relate to the case of any other gentleman, (if any such there are,) whose situation may be similar in some, though not in all, respects to mine. Not because I know, or even suspect, that the facts connected with this case are more favorable to

my holding my seat, than the facts relating to the case of any other gentleman may be favorable to him; but because I think it just that this, like every case of individual right before this, as before every other tribunal, should stand upon its own base, and be decided according to the facts and circumstances of each particular case. The Constitution, by which the several departments of the Government has been created, is the only authority essentially connected with, or that has any bearing on the question. As well may we call to their aid the by-laws of the corporation of the City of Washington or of Alexandria, in giving a construction to that instrument, as the laws of the State of Ohio, or of any other State in the Union. I mean no disrespect to the laws of any State. They are all wise and proper, I presume, within their respective spheres; but they have no bearing on the question. Taking the Constitution for our only text and guide, does it prohibit a person, thus situated, from becoming a member of Congress? I think not. He is not precluded, either by the words or the spirit of the Constitution. That part of the Constitution, and the only part that is regarded as prohibitory, in the sixth section of the first article, reads as follows: "And no person holding any office under the United States shall be a member of either House during his continuance in office."

What, sir, is necessary to constitute a person a member of Congress within this provision of the Constitution? Does the mere act of the people, by electing him their Representative, either in fact or in law, make him a member of Congress? I think not, sir. For, if so, the mere nomination of the President, or the mere nomination of the President with the approbation of the Senate, may constitute a judge in law or in fact of one of your courts an Ambassador, a Consul, or any other officer, which the President and Senate have the power, under the Constitution, of appointing; and that, too, with or without the consent of the person thus nominated, without any evidence of his acceptance, and without his taking the oath of office as prescribed and required by law; a doctrine which, I presume, would not be contended for even by the memorialist himself. And yet this position, as preposterous as it manifestly is, is nevertheless correct, if the election of a Representative by the people, without any act on his part, evidencing his consent, or proving his acceptance, will constitute him a member of Congress. So far is this from being the law, as it regards this case, that I believe in every instance, as well under the Government of the United States, as under the several State governments, there is always one or more acts to be performed, both by the candidate or contemplated officer, and by the Government or people, as the case may be; all of which must be performed before any person can be constituted an officer, either in law or in fact; and such is peculiarly the case as it respects a member of Congress. First, the people must elect him. Second, the votes must be canvassed. Third, his election must be duly proclaimed. And, fourth, the evidence of his election, and certificate of the fact, must be made out and furnished him by the Executive of the State. All these acts are required to be performed by the people and the Government, and that, too, before the person elected is bound even to know that he is elected; and even then it would be unreasonable to say that the person elected should not have some little time to reflect on the subject, and to make up his mind whether he would resign one office to accept of another. But the performance of all the acts above-mentioned do not

constitute him a member of Congress. He is merely a Representative elect; an inchoate or inceptive member.

There are yet two other acts to be performed, one by the Government, another by the inchoate member, or the Representative elect, before his right to his seat is consummated, and before he is, agreeably to the language and spirit of the Constitution, a member of Congress. He must appear in this place, and consent to take the oath as prescribed to support the Constitution, and the Speaker must administer that oath to him. This act of his, in consenting to take the oath, is the only legal evidence known to your Constitution or laws, of his having accepted the office; and his having taken the oath, is the only legal evidence that he is, in law and in fact, a member of Congress—the other acts enumerated having also been performed. This case may be assimilated to that of any other contract made when the people or the Government form one party, and an individual the other party; or to that of a contract made by two individuals; the assent of both to the contract must be proved, or it is no contract. If all the acts which I have enumerated are not necessary to be performed, to constitute a member of Congress, how many are necessary? Where is the dividing line drawn? And by what is it drawn? The Constitution has drawn no line between the performance of the whole or a part of those acts. And upon the same principle that the performance of any one of those essential acts and conditions to constitute a member may be dispensed with, the whole may be dispensed with, and a person is equally a member of Congress, with or without the consent of the people, or of his own consent. It is contended that a Representative elect, in the State of Ohio, and before he takes the oath required by the Constitution, was, on the 4th of March last, a member of Congress, or he was not a member; if a member, he could not hold the office of attorney; and if not a member, there was a vacancy, and the Executive should or might have issued a writ, ordering a new election to fill the vacancy. To support this position, a statute of Ohio is cited, and which, it is said, provides for the election of a Representative on the second Tuesday of October, for the term of two years, to commence on the 4th day of March thereafter. That there is such a statute is not denied. I have, however, before entered my protest against the propriety of dragging in the statute of any State, to control or vary the correct meaning and construction of the Constitution of the United States. From whence, sir, did the Legislature of Ohio derive their authority to pass a statute determining when the office of a member of Congress shall begin, or when it shall end, or how long it shall continue? Surely not from this Constitution. The only power given by the Constitution to the State Legislatures on this subject, is that of prescribing the times, places, and manner of holding elections; fourth section, first article. The second section of the first article of the Constitution provides for the election of the Representatives every second year by the people of the several States, without fixing any time when the office shall commence. As, then, neither the Constitution, nor any law made by the authority of that instrument, fixes the time when the office of a member of Congress begins, it is but fair to conclude that it was the intention of the Convention that the office should commence at the time the oath was administered to the Representative by the Speaker, and not before. Or otherwise, that convention of states-

men, good and wise as they were, would expressly have fixed on some other and earlier period, and not have left the question open for construction.

I accord with the position assumed, that a Representative elect, on the 4th of March, and before he takes the necessary oath, was a member of Congress, or he was not a member, within the sixth section of the first article of the Constitution: I maintain the negative of this position. If a Representative elect was, on the 4th of March, and before he took the oath, a member, then not only all the rights and privileges of a member instantly attach to him, but also all the rights and privileges of the people on their Representative, as instantly attached to them. I presume it will not be said that the rights of the Representative elect of the people attach to him before the rights of the people on him attach to them. No, sir. Those respective rights have a simultaneous beginning: and suppose the President had thought proper, on the 4th of March, or soon thereafter, to have called an extra session of Congress, (as he had a right to do,) and the Representative elect, before he had taken the oath, had been summoned to attend at this place, and refused obedience to the summons, could his obedience have been forced? No, sir. And suppose, on the 1st of December, the Constitutional period for the meeting of Congress, the House had met, and there not being a quorum to do business; suppose a member elect, but who had not been sworn into office, was walking the streets of this city, attending to his ordinary private concerns, with the certificate of his election in his pocket, as made out by the Executive of the State, could the House compel the attendance of such Representative elect? Or suppose the Sergeant-at-Arms should seize the Representative elect, and drag him before the House, *vi et armis*, and Mr. Speaker should rise with his bible in his hand, and order him to be sworn, and to repeat the form of the oath after him, and the Representative should refuse, by saying he would not repeat the oath, he would not be sworn, and that he would not perform the duties of a member: I ask, would not Mr. Speaker, and would not the House, to use a homely phrase, be at the end of their tether? And why? Because a Representative elect cannot perform any duty enjoined upon him by law, before he has taken the oath of office, and he cannot take the oath before Congress convenes, and which is the only legal, unequivocal, and certain evidence that he has accepted the office, and has become a member. Nor do the rights and privileges of a member of Congress instantly attach to a Representative elect on the 4th of March, and before he takes the oath of office. If he, indeed, takes the oath on the 4th of March, I agree that his rights and privileges attach to him, in the manner as prescribed by the Constitution, so soon as he takes the oath, and not before.

It will be perceived, sir, that there is an evident distinction running throughout the Constitution, between the meaning of the word representative and the word member. The word *representative*, as used in the Constitution, signifies a person who has been elected, but not *qualified to act*; to him the rights and privileges of a member do not attach. The word *member* signifies a person who has not only been elected, but has taken the oath of office. It means a member; *de jure* and *de facto* to him the rights and privileges do attach. Thus, for example, in the fourth section of the first article, "the times, places, and manner of holding elections for Senators and Repre-



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representatives shall be prescribed in each State by the Legislature thereof;" not for Senators and members. And again, by the fifth section of the first article, "each House shall be the judge of the elections, returns, and qualifications of its own members," not of its own representatives, "and a majority of each shall constitute a quorum; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members," not the attendance of absent representatives. "Each House may determine the rules of its proceedings, punish its members," not its representatives, "for disorderly behavior, and, with the concurrence of two-thirds, expel a member," not expel a representative. And the sixth section of the first article, called the *prohibitory* section, does not say that a person holding any office under the United States shall not be a representative during his continuance in office. It says, no person holding, &c., shall be a member of either House during his continuance in office. And however it may have been the fact in some instances, that Representatives elect, before they were qualified and took their seats in the House, may have claimed exemptions from the performance of military duties, (as is alleged by the memorialist,) and the benefit of the privilege of franking letters, &c., (though I do not know that it is a fact that any gentleman has done it—I can answer for one that I have not done it,) yet I very much doubt whether the practice is warranted by the true construction and spirit of the Constitution. Again, sir, if the Convention who framed the Constitution intended that no person holding office under the United States should be a Representative elect during his continuance in such office, they would have employed the necessary and appropriate language for the expression of that intention, as they certainly were capable of doing, and not employed the language here used.

If such had been their intention, the Convention would have employed the same language which they have used in the second section of the first article, where they have clearly expressed such intention, when they say, "No person shall be a Representative who shall not have attained to the age of twenty-five years, been seven years a citizen of the United States, and an inhabitant of that State in which he shall be elected." So in the first section of the second article, "No Senator or Representative, or person holding any office of trust or profit under the United States, shall be an Elector." Here the Convention has not only said that a person holding an office under the United States shall not act as an elector, but that he shall not be a candidate; *he shall not be appointed an elector.*

I have only to add, sir, that if a contrary doctrine prevails, it will have the effect, in many instances, of defeating the views and thwarting the wishes of the people. It will have the effect, in some instances, of limiting the number of persons out of whom the people will be permitted to select their candidate for a member of Congress. I can assure you, sir, that I should not have permitted my name to be used as a candidate, if I had not most conscientiously believed that I had the right, lawfully and equitably, to hold the office of attorney (as inconsiderable as the emoluments of that office are) until I took the oath as a member of this House. For, by taking a seat in this House, I have not only resigned the office of Attorney of the United States on the 29th November, (which I did cheerfully at the time,) but shall also suffer a considerable loss by neglecting the practice of my profession as a lawyer, which has heretofore been profitable. The latter

loss I believed would be as great as my pecuniary circumstances could comfortably sustain for the honor of holding a seat in this House, without resigning the office of attorney, long before I became in fact a member of Congress.

I have the honor to be, &c.,

SAMUEL HERRICK.

WASHINGTON, Dec. 29, 1817.

*Answer of Mr. Holmes, filed in behalf of Mr. Herrick.*

Mr. Herrick is duly elected a Representative in the Congress of the United States from the State of Ohio. At the time of his election, and until after the 4th of March last, he held the office of the U. S. Attorney for the District of Ohio; which office he resigned before the commencement of this session of Congress.

Upon these facts his right to a seat is contested. In the sixth section of the first article of the Constitution of the United States, it is provided that "no Senator or Representative shall, during the term for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office." The first clause affects the office, the last the membership. The first prohibits the Executive from taking away a Representative from the people, and very properly extends it to the whole period "for which he is elected." And it guards against the temptation to create offices for our own emolument.

Had the prohibition, in the other clause relating to membership, been intended to extend to the same period of time, it would have been so expressed; the sentence would have then stood, "and no person holding any office under the United States during the time for which he was elected, shall be a member of either House." The changing the phraseology in the same paragraph, would not have been without design; the prohibition does not extend to the time for which he is elected, nor even in which he is a member, but is expressly limited to his continuance in office.

When the Constitution disqualifies a person from serving the people as their Representative, the reason of the disqualification is apparent. By the second paragraph of the second section of the same article, no person shall be a Representative who shall not, when elected, be an inhabitant of the State. The inhabiting is required at the time of his election, that the people may know his ability and his principles, and he may understand their interests and inclinations.

The first and principal inquiry then is, was Mr. Herrick, in the sense intended in this clause of the Constitution, a member of this House "during his continuance in office?"

It would be difficult to perceive how a person can be a member of either House until he has met with the others, taken the oath, and submitted to the usual organization. Before this he has no powers as a member. He can do no act in that capacity. He is, to be sure, a Representative or member elect, but he is not a member of the House until that House shall have judged of his "election, return, and qualification."

A person cannot be a member until he accepts the appointment. This is not done until he appears and expresses his willingness to act, or, at least, claims some privilege of his election. Many members do not

receive their credentials until they arrive at the Seat of Government. A notice that they are chosen does not make them members, nor is it evidence of their acceptance. When they elect to act, they signify their acceptance; when they are qualified, they become members.

The word "member" is used, throughout the Constitution, to signify a constituent branch of an organized House. Thus the House of Representatives is to be composed of members, &c. The Senate may convict, on impeachment, with the concurrence of two-thirds of the members present. Each House shall be the judge of the election, &c., of its own members, may punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member. At the desire of one-fifth, the yeas and nays of the members are to be entered on the journals, and there is no instance in which they are spoken of as members, except as constituting a House, unless the power to compel the attendance of absent members is an exception. If this power extends to compelling the attendance of those who have never taken their seats, it would seem that in one instance the Constitution describes persons as members before they are qualified. But it is at least doubtful, whether a minority of the House can exercise forcible means to bring in a man who has never taken the oath, nor submitted to the rules. It is not readily perceived what officer could be employed to execute a *compulsus* upon a member elect, in a remote part of the country, who had never submitted to the authority of the House, nor signified his acceptance of his place.

If the expression is intended to extend to those only who absent themselves after they are qualified, it is not an exception. But, at most, it is not an exception. It speaks of the House compelling the attendance of absent members, or members elect. The word *absent* qualifies the meaning. Besides, it only proves that the Representatives are called members after the commencement of the session, which might be safely admitted.

When they are spoken of in the Constitution in relation to other times than while in session, they are invariably called Senators and Representatives, and not members. Thus no person shall be a Representative who shall not have attained to the age of twenty-five years, and, when elected, be an inhabitant of the State; so of a Senator. The times, &c., of holding the elections of Senators and Representatives shall be prescribed by the Legislatures of the States. Senators and Representatives shall receive a compensation, and be privileged from arrest. These privileges embrace the time in which they are members, and more; including their going and returning. No Senator or Representative shall, during the time for which he is elected, be appointed to any civil office, &c.; and then comes the clause under consideration, that no person holding an office shall be a member.

This being the solitary instance, among so many, in which the word is extended beyond the session, there should be some good reason for this difference of its meaning. Now, what is the reason? Does the office influence the election? The objection comes too late. It seems to be agreed that a person may hold his office at least to the time of his election.

Does it influence the conduct of the member? The office ceases before he begins to act. There are very good reasons why a person shall not be a member during his continuance in office. His duties as a Representative are not to be interrupted by the duties

of his office, nor his motives perverted by Executive influence. If, before he is called to act as a Representative, he is disencumbered of the office, the former reason ceases; and why does not the latter? Can it be pretended that, because he has had an office, the influence continues after the office ceases? Is a Representative purified if he resigns an office on the third, and polluted if he holds it to the fourth of March? A doctrine like this leads to the most palpable absurdities. The election in New York is twenty months before the usual session in which the Representatives are to serve; that in Tennessee, about four months. Suppose a gentleman in each State to be appointed to an office of the same kind, on the same day. They both hold their offices up to the day in which the election takes place in Tennessee, resign on the same day, are chosen to Congress, and take their seats. Yet, because the gentleman from New York held his office, after the 4th of March, and after his election, and the gentleman from Tennessee held his to the same time and up to his election, the latter is qualified, and the former disqualified. Here are two gentlemen, who hold their offices and take their seats contemporaneously, and one is admitted and the other rejected, and the reason is, that the one would be under Executive influence, and the other would not. It is a poor compliment, indeed, to those venerable sages who framed the Constitution, to suppose them capable of such palpable absurdities.

At the time the Federal Constitution was framed, an opinion had long prevailed that Executive and judicial officers ought not to partake in legislation. It was deemed expedient that the three departments of Government should be kept distinct, lest members of a Legislature, holding offices under the Executive, might be too much inclined to yield to his will, and extend his power. But it would have betrayed unreasonable jealousy to apprehend that gratitude for past, or hopes of future favors would lure a member from his duty. Had the framers of the Constitution apprehended any danger from this source, they would have defined and equalized the time that an office must be executed, before the incumbent could act as a legislator. And they would have especially extended their prohibition to a period after the legislator's power had expired. Men are less inclined to be influenced by gratitude for past, than hopes for future benefits. Selfishness induces the belief that when the office is executed, the account is balanced. But the hopes of future smiles afford a much stronger inducement to a member to forget his constituents, and cling to the Executive.

But it is insisted that Congress is a perpetual body, and as soon as one House expires another springs into existence. Visionary as is this theory, it becomes us to notice it. The Constitution has provided that the House shall be composed of members chosen every second year, but has not defined at what time their period shall commence. It is the law that has established the 4th of March as the commencement of the two years within which a Congress shall meet and act. The time of election, however, is still left with the States. In Virginia, North Carolina, and Tennessee, the Representatives are chosen after the 4th of March. If membership commences at this time, the Representatives of those States must be excepted, or be members before they are chosen. And should the other States postpone their elections until after the 4th of March, which they have a right to do, this doctrine of a perpetual Congress would be sub-

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verted, and still the Constitution and the liberties of the people would be safe.

But it is said that because, by the Constitution and laws, Representatives are entitled to privileges before and after their sessions, this implies that they must be members while these privileges exist. This argument proves too much—Congress might be summoned to meet on the 4th of March. They must set out for the Seat of Government, and would be exempt from arrest before the former Congress expires. But they cannot be members while another Congress exists. They may, and generally do, hold their last session until the 4th of March, when their term expires. They are, however, exempt from arrests during their return, but they are not members during that time. The truth is, that while going to become members, and returning after they have ceased to be members, they are entitled to this privilege. The same reason will apply when speaking of their right of franking letters, or any privileges granted by law.

But it is apprehended that a Representative would resign his office and take his seat, upon a bargain with the Executive that he should be reappointed. If this objection deserves a serious answer, it may be observed that this clause in the Constitution, in its utmost extent, is no cure for the evil. Before the election, or after and before the 4th of March, the resignation would always be made under a promise of reappointment. Were we disposed to indulge in suspicion, we should have much more reason to fear a contract for a new appointment than a reappointment. But the Constitution has provided against neither. To suppose it possible, would be a slander upon any Executive, and betray a jealousy totally unworthy a free and enlightened people.

The State constitutions afford a very good commentary upon the clause under consideration. The incompatibility is generally confined to the power of acting. In few instances it extends to eligibility, but in none to the precise time for which the person is elected.

By the constitution of Massachusetts, formed in 1780, executive and legislative powers cannot be exercised by the same person.

By that of Virginia, formed in 1776, the exercise of the powers of the different departments of the Government at the same time is prohibited.

By that of Delaware, of the same year, certain officers are made ineligible to either House, and members accepting of offices vacate their seats.

By that of New Jersey, of the same year, no person holding an office of profit, &c., shall be entitled to a seat in the General Assembly; but, on his being elected, and taking his seat, his office shall be vacated. There are instances which happened during the Revolution, at a time when the corruptions of Parliament were deprecated and magnified.

Several of the State constitutions, adopted since that of the United States, have copied the words of that instrument in this particular.

By that of Georgia, however, the person holding an office shall not be allowed to take his seat.

By that of Tennessee, no person of the above description shall have a seat.

By that of Mississippi, laid on the table during this session, the prohibition commences with the first session after the election. With such expressions of the opinions and inclinations of the people before them, the framers of this Constitution made the provision in question; and it seems impossible to doubt their

intention to prohibit merely the exercise of the powers of the different departments of the Government by the same person at the same time.

Were this construction a novel one, and resisted by the uniform practice of this House, the propriety of urging this doctrine might be reasonably doubted. Had the indulgence of the practice proved dangerous to the independence of the House, or the liberties of the people, it would be our duty to correct it. But ever since the first organization of the Government, repeated instances of the kind have occurred, and those even stronger than that of the member objected to. Mr. Tracy, of Connecticut, while a Senator of Congress, was appointed by the President to the performance of some office relating to the Indians, the duties of which encroached upon the session of Congress, but he finished the duties, took, and retained his seat.

Mr. Dawson, a member from Virginia, between the first and second session of the Congress for which he was elected, was appointed as a messenger to France. He performed the duties of his appointment, returned, and resumed and retained his seat.

Mr. Turner, of Massachusetts, claimed the seat occupied by Mr. Baylies. The House decided in his favor. He resigned the office of postmaster, and immediately took his seat.

Mr. Worthington and Mr. Morrow, Senators in Congress from Ohio, were, in 1812, appointed by the President to make a treaty with certain Indians in that State. They attended to the duties assigned, after the 4th of March, and returned, took, and retained their seats.

In nearly every Congress since the commencement of the Government, postmasters have been returned as members, and such members have almost uniformly held their offices after the 4th of March succeeding their election. Since the year 1800, are, among others, the following cases: Benjamin Tallmadge, Erastus Root, Matthew Lyon, Thomas Gholson, Samuel McKee, S. Dana, E. Wickes, and H. Tracy. When a Representative is fairly elected by the people, every doubt should weigh in his favor. Unless the construction of the Constitution is plainly against him, he should retain his seat. But when the letter and the spirit of the Constitution, and its rational and practical construction, are favorable, there seems no plausible reason why a member should be disturbed.

J. HOLMES.

## CASE OF ELIAS EARLE.

Mr. TAYLOR, of New York, from the Committee of Elections, made a special report on the case of ELIAS EARLE, who held the office of a deputy postmaster subsequent to the fourth day of March last, declaring him entitled to a seat in this House; which was read, and referred to the Committee of the Whole on the case of Samuel Herrick. The report is as follows:

"The Committee of Elections, to which was referred a resolution of the House of the 10th of December, 1817, and a message of the President of the United States, of the 29th of the same month, report, in part:

"That, in the month of April, 1815, Elias Earle was appointed postmaster at Centreville, in the State of South Carolina; that, at the last Congressional election in that State, he was elected one of its Representatives to this House. On the 10th of February,

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1817, the Governor executed a certificate of his election, which Mr. Earle states to have been received by him in April or May following. On the 10th of September, 1816, he addressed to the Postmaster General, and sent, by mail, a letter, requesting it to be accepted 'as his resignation as postmaster,' and recommending the appointment of a Mr. Tillinghast, who was accordingly appointed; but having omitted to execute the bond required by law, he was never commissioned. The office continued to be executed in the name of Mr. Earle, and he superintended the same until the 12th of June, 1817, when his connexion with it ceased, as appears by the message above mentioned.

"We subjoin hereto a letter from the Postmaster General, marked (A), and copies of two letters of Mr. Earle, marked (B) and (C), which are designed to be considered as part of this report, and respectfully submit the following resolution:

"Resolved, That Elias Earle is entitled to a seat in this House."

(A.)

GENERAL POST OFFICE, Dec. 30, 1817.

Elias Earle, Esq., being postmaster at Centreville, South Carolina, September 10, 1816, sent a resignation, and recommended Daniel H. Tillinghast to be his successor. An appointment was sent to Mr. Tillinghast, who never executed the bond. On the 12th of June, 1817, by letter, Mr. Earle recommended John Morriss, jr., to be appointed postmaster. The appointment was sent to Mr. Morriss, who also declined. During the above period, Mr. Earle superintended the direction of the office, though he considers his resignation to relate back to 1816.

R. J. MEIGS, Jr.

(B.)

CENTREVILLE, Sept. 10, 1816.

SIR: You will be so good as to receive and accept of this as my resignation as postmaster at this place, and I also take the liberty of recommending Daniel H. Tillinghast as postmaster, in my place. In answer to your inquiries where I was born, I can only say, in Virginia. Your obedient servant,

ELIAS EARLE.

To the POSTMASTER GENERAL.

(C.)

CENTREVILLE, June 12, 1817.

SIR: Enclosed is a receipt paid Alexander Waddle for the amount of forty dollars, returned by your order, which amounts to upwards of twenty more than is due you, by the returns forwarded to you last mail from this office, which I paid at your request, and which can be settled for. This office is for several months without a postmaster, although I wrote to you last September, and lately again. I hope you will name Mr. John Morriss, jr., as it is impossible I can keep any charge of it, as I am almost constantly from home. It has hitherto been tolerably well attended to.

Your obedient servant,

ELIAS EARLE.

To the POSTMASTER GENERAL.

JUDICIAL RECORDS, &amp;c.

The House then resolved itself into a Committee of the Whole, on the bill to prescribe the effect of certain records and judicial proceedings.

The question being on an amendment proposed by Mr. BALDWIN to the bill, as a substitute for the first section—

Mr. ROSS opposed both the bill and amendments at some length, on Constitutional grounds, as well as on the ground of expediency. If the principle of the bill was correct, he said, declaring as it did, that judgments rendered in one State should be of equal effect in any other State, the provisions of the bill ought to have gone further, and declared every act of the Legislature of any State to be of equal force in any other State; for the two declarations would have been in principle the same. The Constitution had given to Congress the power to declare what should make a record authentic, but not to prescribe its effect in any other State; and any other construction than this, Mr. R. considered as tending to the establishment of a consolidated Government. In regard to the expediency of the bill, Mr. R. said he viewed every attempt to change the common law as injurious; and he was therefore opposed to this bill. Leave the question to the decision of common law, and fewer evils would result from it, he said, than from any legislative provision. In the course of a speech of half an hour, Mr. R. enforced these general views by a variety of illustrations and references to the practices prevailing in the different States, &c. With respect to the argument of its extending commercial credit, on which Mr. SPENCER the other day justified the bill, Mr. R. did not allow it the force claimed for it; for, he said, he would not agree to pass the bill to enable the New York merchant, when his customer had come there from Kentucky, to spring the trap upon him, compel him to confess judgment, or go to prison for want of bail, and that judgment to have the same effect given to it in Kentucky as it would have had in New York.

Mr. POINDEXTER spoke to the amendment; which he considered radically defective in giving the same force to judgments in other States as they would have had in the State in which they were given. He took a legal view of the question, as connected with the practice in the courts of the several States, the variance of which he showed would make the provisions of the amendment unequal in their operation.

Mr. STRONG, in the course of a few observations he made on the question, said he did not know whether any amendment to the bill would make it palatable to him; but he certainly thought the amendment much preferable to the bill, inasmuch as the amendment gave to judgments in one State a conclusive effect in another, only in cases where it appeared on the record there had been a trial.

Mr. BALDWIN spoke in support of his amendment; which, he said, went to vary the bill in all its essential features, as he showed in the course of his remarks. He drew a comparison between the bill and his amendment, showing why he preferred the latter.

Mr. SPENCER replied to those who had supported the amendment, and vindicated the original bill by a series of arguments drawn from the prevailing practice and the principles of law. He avoided replying to the Constitutional objection Mr. ROSS had advanced, as not being on this incidental

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question fairly before the House. He insisted, however, on the effect the bill would have in sustaining commercial confidence, and in strengthening the ties which bind the States together by making their co-operation more harmonious. In conclusion, he submitted to gentlemen (repeating Mr. WILLIAMS's remark) whether they would not give to the records of the courts of the respective States the same effect which was now allowed to the records of any petty court in the West Indies.

The question was then taken on Mr. BALDWIN's motion to amend the bill, and negatived.

Other amendments were proposed to the bill, some of which were agreed to, and others rejected; in the proposition and discussion of which Messrs. STORRS, ORR, TERRY, BEECHER, ROSS, PINDALL, STRONG, FORSYTH, SPENCER, and LIVERMORE, bore part. In the course of the debate,

Mr. HOPKINSON gave at large, but with precision, his views of the Constitutional objection suggested by Mr. ROSS. He was of opinion that Congress were entirely at liberty to act on the subject, and that it was expedient to do so, on account of the variety of constructions now given to the law on the subject. He saw no objection to the bill, on the ground some had taken, that it would put the parties in a worse situation than they were in before; on the contrary, the bill would clear up much ambiguity, and, so far as it had effect, would be more favorable to the party sued than the present practice. Mr. H. made a perspicuous argument to sustain his legal view of the question.

When the Committee rose for the day, a motion by Mr. FORSYTH was under consideration to strike out the second section of the bill.

The Committee obtained leave to sit again.

### TUESDAY, January 6.

Mr. MASON, of Massachusetts, presented a petition of sundry manufacturers of paper, praying that a duty of two dollars per ream may be imposed on all paper imported into the United States.—Referred to the Committee of Ways and Means.

Mr. HARRISON presented a petition of Martha Perry, widow, daughter of the late Captain Joshua Huddy, of New Jersey, who, in the Revolutionary war, was cruelly and wantonly put to death, by a band of Tories; praying for a pension.—Referred to the Committee on Pensions and Revolutionary Claims.

Mr. HERBERT presented a petition of the Columbian Institute, for the promotion of arts and sciences, established at the City of Washington, praying for an act of incorporation.—Referred to the Committee for the District of Columbia.

Mr. STROTHER presented a petition of Armistead T. Mason, contesting the election and return of Charles F. Mercer, as one of the members of this House, for the State of Virginia, and praying to be admitted to a seat in the House, in the place of the said Charles F. Mercer.—Referred to the Committee of Elections.

Mr. JOHNSON, of Kentucky, presented a petition of sundry emigrants to the United States from Switzerland, praying that twelve townships of land, lying in some one of the Territories of the United States, may be granted to them upon the same terms and conditions as were granted, at the last session of Congress, to sundry emigrants from France.—Referred to the Committee on the Public Lands.

The SPEAKER laid before the House sundry depositions and documents, on the subject of the contested election of Charles F. Mercer, a member of this House from the State of Virginia; which were referred to the Committee of Elections.

Mr. MCCOY, from the Committee of Claims, to whom was referred the petition of John Bate, with the report of the Secretary of the Treasury thereon, and the bill for his relief, reported the said bill with an amendment; which was read and agreed to by the House, and the bill was committed to a Committee of the Whole.

Mr. HERRICK, from the Committee on Private Land Claims, reported a bill confirming the claim of William Daniel, or his legal representatives, to a tract of land in the State of Mississippi; which was read twice and committed to a Committee of the Whole.

Mr. HERRICK also reported a bill, confirming the claim of Tobias Rheams to a tract of land granted to him by the Spanish Government; which was read twice, and committed to the Committee of the Whole last appointed.

Mr. PARRIS, from the committee appointed on so much of the President's Message as relates to the Public Buildings and to the erection of additional public edifices, reported a bill making further provision for repairing the public buildings; which was read twice, and committed to a Committee of the Whole.

The bill from the Senate, entitled "An act for the relief of William Edwards and John G. Stubbs," was read the second time, and committed to a Committee of the Whole.

### NATIONAL FLAG.

Mr. WENDOVER, from the committee appointed to inquire into the expediency of altering the flag of the United States, made a report, which was read; when Mr. W. reported a bill to alter the flag of the United States; which was read twice, and committed to a Committee of the Whole.

The report is as follows:

That they have maturely considered the subject referred to them, and have adopted, substantially, the report of the committee to whom was referred the same subject at the last session of Congress, as forming a part of this report. The committee are fully persuaded that the form selected for the American flag was truly emblematical of our origin and existence as an independent nation, and that as such, it having met the approbation and received the support of the citizens of the Union, it ought to undergo no change that would decrease its conspicuity, or tend to deprive it of its representative character. The committee, however, believe that an increase in the number of States in the Union since the flag was altered by law suffi-

ciently indicates the propriety of such a change in the arrangement of the flag as shall best accord with the reasons that led to its original adoption, and sufficiently point to important periods of our national history.

The original flag of the United States was composed of thirteen stripes and thirteen stars, and was adopted by a resolution of the Continental Congress on the 14th of June, 1777. On the 13th of January, 1794, after two new States had been admitted into the Union, the National Legislature passed an act that the stripes and stars should, on a day fixed, be increased to fifteen each, to comport with the then number of independent States. The accession of new States since that alteration, and the certain prospect that at no distant period the number of States will be considerably multiplied, render it, in the opinion of the committee, highly expedient to increase the number of stripes, as every flag must, in some measure, be limited in its size, from the circumstance of convenience to the place on which it is to be displayed; while an increase would necessarily decrease their magnitude, and render them proportionably less distinct to distant observation; this consideration has induced many to retain only the general form of the flag, while there actually exists a great want of uniformity in its adjustment, particularly when used on small private vessels.

The national flag being in general use by vessels of almost every description, it appears to the committee of considerable importance to adopt some arrangement calculated to prevent in future great or expensive alterations. Under these impressions, they are led to believe no alteration could be made more emblematical of our origin and present existence, as composed of a number of independent and united States, than to reduce the stripes in the flag to the original number of thirteen, to represent the number of States then contending for and happily achieving their independence, and to increase the stars to correspond with the number of States now in the Union, and hereafter to add one star to the flag whenever a new State shall be fully admitted.

These slight alterations will, in the opinion of the committee, meet the general approbation, as well of those who may have regretted a former departure from the original flag, as of such as are solicitous to see in it a representation of every State in the Union.

The committee cannot believe that in retaining only thirteen stripes it necessarily follows they should be distinctly considered in reference to certain individual States, inasmuch as nearly all the new States were a component part of, and represented in, the original States; and inasmuch, also, as the flag is intended to signify numbers, and not local and particular sections of the Union; nor can the committee view the proposed inconsiderable addition to be made on the admission of a new State in the light of a departure from that permanency of form which ought to characterize the flag of the nation. The committee respectfully report a bill.

#### COMPENSATION TO MEMBERS, &c.

On motion of Mr. HOLMES, of Massachusetts, the several orders of the day preceding the bill to fix the compensation of the members of the Senate and House of Representatives, were postponed, and the House resolved itself into a Committee of the Whole on the said bill.

[The bill provides that the daily compensation of the members, during their attendance on Con-

gress, shall be nine dollars, and the allowance for travelling to and from the seat of Congress, at the rate of nine dollars for every twenty miles of the distance.]

Mr. ROSS, of Pennsylvania, by way of trying the sense of the Committee on the subject, moved to strike out the word *nine* and insert the word *six*, as the amount of daily compensation.

The question on this motion was loudly called for, indicating a disposition to take the sense of the House without debate.

Mr. DESHA said, he should support the motion made by the gentleman from Pennsylvania, however unfashionable it might be, which was to strike out the word *nine* and insert *six*, and, he suspected, should be found in a small minority; but that should not prevent him from discharging his duty. It is a little mortifying, said he, to see such extreme anxiety manifested on the occasion. Does it look dignified in this body, because they are immediately interested in this measure, to see them urge it forward to the exclusion of all other business, that is entitled to precedence under the rules of the House? I sincerely wish that we may not have the same scene acted over again, that was acted the first session of last Congress, when the compensation bill, of famous memory, was on the carpet. This bill contemplates giving the members nine dollars per day, and nine dollars for every twenty miles in travelling to and returning from the Seat of Government. Do the gentlemen seriously believe that the people will submit to this without a murmur? If they do, I suspect they will be most egregiously mistaken. It may be deemed vanity in me to suppose, that any reasons I could advance, in opposition to this measure, would have a tendency to change the minds of gentlemen; and, indeed, the subject has been so long maturing before the committee, which was ordered to prepare and report the bill, that, it is presumed, gentlemen have principally made up their minds; but, notwithstanding which, it is a duty I owe those whom I have the honor to represent, as well in compliance with my own feelings, to express my sentiments against the bill, and whatever duty leads to I trust I shall never shrink from. Disorder, however it may be calculated to embarrass, shall not drive me from the floor. I regret extremely that the committee, to whom the resolution was referred, to prepare and report a bill on the subject of the daily allowance of the members, had not left a blank in the bill, and left the Committee of the Whole the privilege of filling the blank with whatever sum they might think proper. Why this deviation from the usual course? I appeal to gentlemen to say, if this does not look like forestalling opinion. When I understood who were the gentlemen that composed the committee, I anticipated the recommendation of high pay, because they are professional gentlemen, and, I presume, accustomed to receiving high fees. My anticipations are realized. They have recommended nine dollars per day, and nine dollars for every twenty miles in travelling to and returning from the Seat of Government. It is in



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the nature of things for those who make their money lightly to permit it to go freely, and are generally advocates for extravagant salaries, or high pay; but gentlemen ought to recollect that we are not legislating for any particular class of men, but for the whole community; that we are legislating for the people. Sir, who filled the public purse, and who fought your battles in the late war, by which you were prevented from being engulfed in the vortex of tyranny? The people. But, sir, I am afraid the services of the people are soon forgotten by the fashionable legislators of the day, who assume the right to rule the councils and dictate to the nation. Compare even our former pay with the pay of those who fought our battles, and see if it loses anything by the comparison.

Nine dollars per day! We commence our session at twelve o'clock, and have generally terminated them this session at about three, amounting to about three dollars per hour. Would not the honest and industrious farmer or mechanic, who rises early and works late, and, by his greatest exertions from one end of the year to the other, considers he is doing a good business, if, not getting rich, he can save at the end of the year, clear of all expenses, between fifty and a hundred dollars; I say, would not such men think three dollars per hour high pay, and ought not the opinions of such men to be respected? They certainly ought. I view such men as the life and sinew of liberty, whose feelings are worthy of being consulted, and whose opinions ought to be respected.

Mr. Chairman, it is not in my nature to anticipate evil, but I am fearful, from the disposition I see manifested, that we are about to have an extremely extravagant and expensive Government; and who are to bear the burden of expense? The people. And, in case you should again be involved in war, who fight your battles but the people? Then ought not their opinions to be respected? It is true, the internal taxes have been removed, and the expenses of Government are to be defrayed by the revenue arising from duties on importations; but who ultimately pays these duties? The people. I grant that it is a voluntary tax— whoever purchases foreign articles pays the duty; but still it is a tax, and the people bear the burden of it. Then, I repeat it, ought not their feelings to be consulted, and their opinions respected?

Sir, can gentlemen be so blind and insensible as not to see and understand what are the feelings and opinions of the people on the subject of the pay of the members of Congress? Is it possible that gentlemen can have forgotten the extraordinary agitation of the public mind, and the conflicts that occurred previous to and about the last election of members of Congress, owing to the circumstance of the members of last Congress having raised their pay; which agitation produced such a change in the minds of the members, that the law, which passed by a considerable majority, for raising their pay, was repealed at the last session by a considerable majority?

Mr. Chairman, I view it as a duty we owe to the people of the United States to fix the allowance of the members of Congress on its former footing, at six dollars per day. I regret extremely that it was not done last session. It ought to have been done, as it was not only proper in itself, but because the people expected it, and, if it had, we would not only have avoided much difficulty, but have satisfied the public mind, which with me, however unfashionable it may be, is an object of the greatest consequence. The feelings of the people on this subject were well understood—they had expressed them in plain language, and in an audible voice, as a proof of which you may, by casting your eyes around, see how few of the members, who were honored with seats in last Congress, were permitted to take seats as members of the present Congress. Is not this proof conclusive, that the people are opposed to the pay of the members being raised so enormously high?

Sir, however gentlemen may disregard public opinion, I have (although I flatter myself that I possess, at least, a common share of independence) not been taught to do so; I view it as a principle, not only ingrafted in the nature of our Government, but as its strength, an essential to its welfare and perpetuation. When I accepted the office of Representative of the people, I considered myself under a moral obligation to represent them, as far as I could understand their views and feelings, to the utmost of my capacity, and not particularly to represent myself. When the views of the people I have the honor to represent have not been expressed, or cannot be ascertained, then I am not only at liberty, but bound to exercise my judgment for their benefit and advantage. Sir, who elected and delegated the power of a Representative to me but the people, and would not I be guilty of a dereliction of duty by betraying the trust reposed in me, as also subject myself to the charge of a breach of the moral obligation if I failed, when I knew their sentiments, to represent them accordingly?

Mr. Chairman, I said that I viewed it as the strength of this Government to pay respect and have a strict regard to public opinion. We have frequently heard it insinuated, and sometimes expressed on this floor, that money or wealth is the strength of a Government. Gentlemen must certainly forget under what kind of Government they live when they make such declarations; they must be thinking of monarchical or despotical Governments; I admit that money or wealth is the strength of such Governments; but, will what constitutes the strength of monarchical or despotical Governments be the main pillar or strength of a republican Government; a Government of the people? No, sir, it is the confidence of the people that constitutes the strength of a republican Government. Sir, while ever the Representatives of the people or public agents continue to act so as to retain their confidence, they have nothing to fear at home, nor from abroad; taxes will be paid to any amount without a murmur, and personal services cheerfully rendered; this is what constitutes the main pillar

or strength of your Government. Then, sir, when such beneficial effects are to arise from it, are not gentlemen, situated as we are, having the honor to represent thirty-five thousand free people, under a moral obligation to pay attention to, and act up with the will of the people, when ascertained by positive expression or strong implication? Sir, I admit, in some of the large towns, where people are in the habit of spending money freely, where the streets are measured by the strides of aristocratic grandeur, where economy would be laughed out of countenance, and where extravagance may be said to be the order of the day, that there are numbers in favor of extravagant salaries or high pay. I admit, in some of the smaller towns in the interior, among some of the storekeepers and clerks, and another class of gentlemen, who have been accustomed to making their money light, and with whom it has been said, that prodigality in public expenditure is characteristic, that the cry is for high pay; the latter class, perhaps, because they consider a seat in Congress a more honorable, eligible, and pleasant situation than that of being engaged in the drudging business of individuals, and would be willing, if the pay were raised high enough to come up to their ideas of money-making, to quit their drudging business for seats in Congress. But, sir, are we to form a judgment on this subject in favor of raising the pay of members of Congress enormously high, because some aristocratical characters in large towns, or those in other situations who are looking forward for offices of prominence, cry aloud for it? No, sir, we must look to the yeomanry of the country, and the handicraftsman, the ostensible supporters of Government, (who, if they are not so clamorous, are more substantial,) for public opinion. Will any gentleman say, that the farmer and mechanic are crying out in favor of raising the pay of the members of Congress? Those men who fill the public purse, and fight their country's battles in time of difficulty? Here is where you must look for the true criterion by which to judge of public opinion. I say, will any gentlemen undertake to set forth on this floor, that they are in favor of extravagant pay? I believe they will not. Although the word economy is unfashionable, I consider economy one of the principal pillars on which our republican fabric stands; permit it to be removed, and the fabric immediately totters, and ultimately falls to the ground. High pay will necessarily produce extravagance. The contagion will ramify and spread until the whole body politic is disordered, and ultimately becomes weak and imbecile, when demagogues will rise, take advantage of its imbecility, overturn the republican fabric, and on its ruins build up tyranny, which cannot, taking into view our present feelings on political matters, be a desirable order of things. Then, would not wisdom dictate the policy of being cautious in not adopting any measure, however plausible it might be, and however gratifying to our feelings momentarily, that might have the most distant tendency to produce such a state of things?

Mr. Chairman, it has been said that members of Congress were worse paid than any other officers of Government. I deny the fact; it is true that the President of the United States and the foreign Ministers are better paid than members of Congress, and, perhaps, some of the subordinate officers of Congress, according to grade; but, as to the latter, honor or patriotism has no agency in their acceptance of offices; emolument is the consideration which influences them; but I hope that is not the case with members; at least I know it ought not to be. It is true members ought to receive what would enable them to live genteelly, and be enabled to save some money; which they can do if they do not go into unnecessary extravagance, or pay any attention to economy, on the former pay, six dollars per day, and six dollars for every twenty miles in travelling to and returning from the Seat of Government. No, sir, the most of our civil officers, and nearly all the military, are worse paid than members of Congress; and what plea have we to justify us in raising our pay but the depreciation of money? Sir, could we, and look justice in the face, refuse to raise the pay of all the officers of the Government, both civil and military, in proportion to what we raise our own; because the same plea of the depreciation of money would operate in their case that does in ours; are we prepared for such a state of things? I believe we are not; neither do I believe the people would bear us out in them. It is lamentably true that money has depreciated; and what is the cause of this depreciation? Certainly the great excess of bank paper that has been thrown into circulation, for which, if Congress have not been entirely blameable, they have contributed their proportion towards it by setting the example of chartering a number of banks; and one, particularly, in its character such a prodigious machine, that I fear it will ultimately operate as a curse on the land, by changing the politics of the Government, and finally giving law to the nation.

Mr. Chairman, it is frequently said, that if we want talents on this floor we must bid up high for them; that men in lucrative employments or professions will not come here unless you raise the pay pretty high; which is an acknowledgment that patriotism, or the honor of serving freemen, could have no agency in bringing such men here, and that their sole object in coming here would be money. I hope I never shall see this Hall filled with characters who would make money the first consideration in coming here. Whenever money is made the first consideration in coming here you will see all the evil passions, incident to the nature of man, set to work, in order to enable them to secure seats in Congress, when liberty, the best blessing of man, will be on the totter, and will soon pass away. Gentlemen talk of talents. Sir, I draw a wide distinction between what is commonly called talents, and real mind, solid judgment, accompanied by a considerable portion of common sense. We have seen visionary characters here who were, by some, called men of talents, because they could cull

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flowers and make long speeches, when they possessed nothing like solid mind, sound judgment, and but a very scanty share of common sense. I don't want to see this Hall filled with such characters; they would make dangerous legislators. I don't want to see the House of Representatives changed from a deliberative body to a talkative assembly. Sir, I want to see this Hall filled with solid mind, sound judgment, accompanied by a great portion of common sense, (which, by the by, is the best kind of sense in times of difficulty,) men of general information, liberal minds, and patriotic feelings. Such men can be had without bidding up so high. Patriotism, with the former pay of six dollars per day, together with the liberal travelling allowance of six dollars for every twenty miles in coming to and returning from the Seat of Government, will always fill your seats with such characters, with whom safety is to be found. If the people wish to have their business conducted in a safe and economical manner, having an eye to the perpetuation of civil liberty, they will send men here whose interest is the same as their's; they will send men here who will be advocates for liberality without extravagance.

I have thought proper to take this view of the subject; but in doing so I have had considerable difficulty to encounter from the extreme disorder arising from an over anxiety for the adoption of this weighty matter, and an apparent determination to prevent any member from expressing his sentiments; which disorder I take extremely unkind, as I am not in the habit of detaining the House often with long speeches. In the view I have thought proper to take of the subject, I have avoided personalities—not only because personalities ought to be avoided in deliberative bodies, but because it was in compliance with a rule I had laid down for myself in setting out in life, which was, never wantonly to wound the feelings of my fellow man, nor to suffer my own to be assailed with impunity.

Mr. CLAY (Speaker) said, he felt himself called upon to make a single observation on a part of his colleague's remarks. He was quite sure, he said, it was not the intention of his colleague to suggest anything like impropriety in the House in regard to the selection of the committee to whom this subject had been referred. But he rose to say, that two principles only had guided the officer, whose arduous and sometimes painful duty it was to select committees, in appointing the committee in question; the one was, to select a majority of the committee from the new members, who, being fresh from the people, might be supposed best to understand their views; the other, to distribute the committee, as much as possible, through the various parts of the continent. The question of their professions he did not inquire into, nor till this moment did he know it, and, he assured the Chair, he had not a knowledge of the views of a single member as to the compensation, except as to one member, (from Connecticut,) who had expressed his views respecting it by a vote which he gave at the last

session, &c. Regarding the subject of this bill, Mr. C. said, he trusted he should not be found to occupy a single moment of the time of the House in discussing it. Every member had certainly by this time made up his mind on this subject, and he did not suppose that any argument here could have any effect on its decision. At the same time, he said, he should be sorry to see his worthy colleague, or any other member, restrained in the slightest degree from the exercise of the indubitable right he possesses, to offer his sentiments to the House.

Mr. HOLMES, of Massachusetts, said, the gentleman ought not to attribute blame to him, if any there was, for urging the consideration of this bill. It was not taken up to-day on the suggestion of his own mind, but at the instance of other gentlemen. Nothing, Mr. H. said, could induce him to enter into the debate on this subject, which he knew would be to no purpose.

Mr. OGLE, of Pennsylvania, replied to a part of Mr. DESHA's remarks. He, too, represented farmers, but not men who wished persons to labor for them at a certain loss. Would any respectable farmer, himself, Mr. O. asked, agree to leave his farm to manage itself, when he knew that, if he did, that he and his family would become beggars? Certainly he would not—he pays those who work for him, and would expect to be paid himself for his sacrifices and labor in the discharge of public duties; and it was a correct principle, he added, that public officers should be paid for their services. In regard to the sort of talent necessary for Congress, Mr. O. suggested that a graduated scale of compensation might be made, if, by trepanning, the brains of all the members could be taken out, and their actual value ascertained by weight—in which case he did know but he might himself come in for small pay. But nine dollars a day, he humbly thought, was a compensation small enough for a just recompense for attendance here; and, though he represented farmers, he had never heard it suggested that that was too much. On this subject, Mr. O. said, he had no instructions from his constituents; he should vote, therefore, not for popularity, but for what he conscientiously believed was just. He most sincerely believed, he repeated, that men who served the public ought to be paid; and, he did not consider it a reasonable expectation that men were to devote their lives to this object purely from patriotism. He hoped, he said, putting these considerations out of view, that a majority of this committee would, on this occasion, give correct votes—not with a view to re-election, but to justice.

The question was then taken on striking out *nine* and inserting *six*, as the daily compensation, and negatived.

Mr. LINN, of New Jersey, then moved to strike out *nine* and insert *eight*; which motion was negatived by a small majority.

Mr. BASSETT, of Virginia, moved to strike out *nine*, and insert *nothing*; which would leave the bill open for any sum; which motion was negatived.

Mr. SOUTHARD, of New Jersey, then moved to reduce the allowance for travelling expenses, from *nine* to *six* dollars for each twenty miles; which motion was also negatived.

Some merely verbal amendments were made to the bill, and the Committee rose and reported the bill.

The bill being immediately taken up by the House—

Mr. PARRIS, of Massachusetts, moved to strike out the word *nine*, as applying both to compensation and to mileage, and to insert *six*, in lieu thereof.

Mr. HARRISON, of Ohio, in explaining what would otherwise appear an inconsistency in the vote he was about to give, said, that he was aware that, in order to preserve in Congress talents of a proper grade, and to enable men of moderate property to come to Congress without loss, a higher compensation was necessary than had heretofore been allowed to members of Congress. But, said he, holding, as we do, the key of the Treasury, we ought not to do ourselves even justice before we do it to others, whose claims are stronger and of longer standing. Whenever justice was done to the sufferers in the war of the Revolution, and not until then, he should be prepared to do justice to ourselves.

Mr. ROSS required the yeas and nays on the question now pending.

On suggestion of Mr. COLSTON, of Virginia, the question was so divided, as to take it separately on the compensation and on the mileage.

Mr. OGLE said he should still vote as he had done in Committee, not allowing to the suggestion of the gentleman from Ohio the weight he attached to it. Every man showed his patriotism and generosity by personal acts; and, to accomplish the object that gentleman had spoken of, said Mr. O., I would distribute among these sufferers one half of my pay—and, whilst I have a loaf remaining, no poor, distressed soldier shall want one half of it. But, Mr. O. said, he well knew Government was able to pay all just claimants; and he would not, for his part, deny justice to one, because the country had hitherto neglected to do justice to others.

The question was then taken on striking out “*nine*” and inserting “*six*,” as the daily compensation of the members, and decided in the negative—yeas 68, nays 101, as follows:

YEAS—Messrs. Baldwin, Barbour of Virginia, Bassett, Bellinger, Bennett, Blount, Boden, Boss, Burwell, Campbell, Comstock, Desha, Earle, Edwards, Ellicott, Gage, Harrison, Hendricks, Herbert, Herrick, Heister, Holmes, of Massachusetts, Huntington, Johnson, of Kentucky, Lewis, McLane, W. P. Maclay, Marr, Mercer, Moore, Morton, Murray, New, Parris, Patterson, Peter, Quarles, Reed, Rhea, Rich, Ross, Sampson, Sawyer, Scudder, Settle, Seybert, Shaw, Sherwood, Silsbee, S. Smith, Bal. Smith, J. S. Smith, Southard, Spangler, Stuart, Tarr, Taylor, Townsend, Trimble, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Westerlo, Whiteside, Williams of Connecticut, Williams of North Carolina, and Wilson of Pennsylvania.

NAYS—Messrs. Abbott, Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Anderson of Kentucky, Austin, Ball, Barber of Ohio, Bateman, Bayley, Beecher, Bloomfield, Bryan, Butler, Clagett, Claiborne, Cobb, Colston, Cook, Crafts, Crawford, Cruger, Cushman, Darlington, Drake, Ervin, of South Carolina, Folger, Forney, Forsyth, Fuller, Garnett, Hale, Hall of Delaware, Hall of North Carolina, Hasbrouck, Herkimer, Hitchcock, Hogg, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Irving of New York, Jones, Kinsey, Kirtland, Lawyer, Linn, Little, Livermore, Lowndes, W. Maclay, McCoy, Marchand, Mason of Massachusetts, Merrill, Middleton, Miller, Moseley, Mumford, Jeremiah Nelson, H. Nelson, T. M. Nelson, Nesbitt, Ogle, Orr, Owen, Palmer, Parrott, Pawling, Pindall, Pitkin, Pleasants, Poindexter, Porter, Richards, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Ruggles, Savage, Schuyler, Slocumb, Alexander Smyth, Speed, Spencer, Storrs, Strong, Strother, Tallmadge, Terrill, Terry, Tompkins, Tucker, of Virginia, Upham, Wallace, Wendover, Whitman, Williams, of New York, and Wilkin.

The question was then taken on striking out “*nine*” and inserting “*six*” dollars as the allowance for every twenty miles’ travel to and from Congress; which motion was decided by yeas and nays—for the amendment 93, against it 76, as follows:

YEAS—Messrs. Anderson, of Pennsylvania, Baldwin, Ball, Barbour of Virginia, Bassett, Bateman, Bayley, Beecher, Bellinger, Bennett, Bloomfield, Blount, Boden, Boss, Burwell, Campbell, Colston, Comstock, Crafts, Desha, Earle, Edwards, Ellicott, Ervin of South Carolina, Forsyth, Gage, Garnett, Hall of Delaware, Hall of North Carolina, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes, of Massachusetts, Huntington, Irving, of New York, Lewis, Linn, Little, McLane, W. Maclay, W. P. Maclay, Marr, Mercer, Merrill, Moore, Morton, Murray, Jeremiah Nelson, H. Nelson, New, Parris, Patterson, Pawling, Peter, Quarles, Reed, Rhea, Rich, Ringgold, Ross, Sampson, Sawyer, Scudder, Settle, Seybert, Shaw, Sherwood, Silsbee, S. Smith, Bal. Smith, J. S. Smith, Southard, Spangler, Stuart, Tarr, Taylor, Townsend, Trimble, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Wallace, Westerlo, Whiteside, Whitman, Williams of Connecticut, Williams of North Carolina, Wilkin, and Wilson of Pennsylvania.

NAYS—Messrs. Abbott, Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Kentucky, Austin, Barber of Ohio, Bryan, Butler, Clagett, Claiborne, Cobb, Cook, Crawford, Cruger, Cushman, Darlington, Drake, Floyd, Folger, Forney, Fuller, Hale, Harrison, Hasbrouck, Hogg, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Johnson, of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Livermore, Lowndes, McCoy, Marchand, Mason of Massachusetts, Middleton, Miller, Moseley, Mumford, T. M. Nelson, Nesbitt, Ogle, Orr, Owen, Palmer, Parrott, Pindall, Pitkin, Pleasants, Poindexter, Porter, Richards, Robertson of Kentucky, Ruggles, Savage, Schuyler, Slocumb, Alexander Smyth, Speed, Spencer, Storrs, Strong, Strother, Tallmadge, Terrill, Terry, Tompkins, Tucker, of Virginia, Upham, Wendover, and Williams of New York.

So this amendment was carried.

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Mr. LITTLE, of Maryland, then moved to strike out "nine" and insert in lieu thereof "eight" dollars as the daily pay.

Mr. BASSETT said that he had voted against eight dollars in the Committee of the Whole, because he preferred six. He should now vote for eight, because he could not succeed in obtaining six.

Mr. POINDEXTER, of Mississippi, said that, as the travelling allowance had been reduced to six, the pay ought to be reduced to the same rate; for that certainly the travelling was the most laborious part of the duty to perform for those who lived at any distance from the Seat of Government.

Mr. JOHNSON, of Kentucky, concurred entirely in the opinion that the travelling was the hardest part of the Representative's duty, in a pecuniary view, and for which members had not heretofore been sufficiently paid. There were occasions on which we were under an obligation to perform gratuitous services for our country; but surely this was not one of them. He too, he said, should vote for the reduction of the pay, because he hoped the mileage and the pay, whatever they were fixed at, would be at the same rate.

The question on reducing the daily pay from nine to eight dollars, was decided in the affirmative—yeas 99, nays 79, as follows:

YEAS—Messrs. Allen of Vermont, Anderson of Pennsylvania, Austin, Baldwin, Ball, Barbour of Virginia, Bassett, Bateman, Bayley, Bellinger, Bennett, Bloomfield, Blount, Boden, Boss, Burwell, Campbell, Claiborne, Comstock, Cook, Crafts, Cruger, Desha, Drake, Earle, Edwards, Ellicott, Ervin of South Carolina, Floyd, Gage, Garnett, Hale, Harrison, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes of Massachusetts, Huntington, Johnson of Kentucky, Lewis, Linn, Little, Livermore, McLane, W. Maclay, W. P. Maclay, Marr, Merrill, Moore, Morton, H. Nelson, T. M. Nelson, New, Parris, Peter, Pleasants, Poindexter, Porter, Quarles, Reed, Rhea, Rich, Richards, Robertson of Louisiana, Ross, Sampson, Savage, Scudder, Settle, Seybert, Shaw, Sherwood, S. Smith, Bal. Smith, J. S. Smith, Southard, Spangler, Speed, Tarr, Taylor, Tompkins, Townsends, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Westerlo, Whiteside, Williams of Connecticut, Williams of North Carolina, Wilkin, and Wilson of Pennsylvania.

NAYS—Messrs. Abbott, Adams, Allen of Massachusetts, Anderson of Kentucky, Barber of Ohio, Beecher, Bryan, Butler, Claggett, Cobb, Colston, Crawford, Cushman, Darlington, Folger, Forney, Forsyth, Fuller, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hogg, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Irving of New York, Jones, Kinsey, Kirtland, Lawyer, Lowndes, McCoy, Marchand, Mason of Massachusetts, Mercer, Middleton, Miller, Moseley, Mumford, Murray, Nesbitt, Ogle, Orr, Owen, Palmer, Parrott, Patterson, Pawling, Pindall, Pitkin, Ringgold, Robertson of Kentucky, Ruggles, Sawyer, Schuyler, Silsbee, Slocumb, Alexander Smyth, Spencer, Storrs, Strong, Strother, Stuart, Tallmadge, Terrill, Terry, Wendover, Whitman, and Williams of New York.

So the daily pay was fixed at eight dollars.

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Mr. LITTLE then moved to reconsider the vote by which the travelling expenses had been reduced to six dollars, with a view to fix it at eight; which would make it stand on the same footing as heretofore, but at a little higher rate.

Mr. STROTHER, of Virginia, intimated, for the information of the House, that he meant, when he had an opportunity, to move to strike out eight dollars, and insert six, for the daily pay, and for reasons he assigned. His wish had been, he said, that ample compensation should be given for services rendered; that, in discharging their important duty, the members of this body should be able to support themselves independently.—Finding, however, that his views could not be accomplished, he would bend to what the House had been assured was public opinion; he would sacrifice the conviction of his mind to the momentary feeling of the country. It had been said, by a gentleman from Kentucky, (Mr. JOHNSON,) whose remarks would always have weight with him, that the duty of travelling was the most laborious a Representative had to perform. That gentleman, Mr. S. said, has had a wide experience. With industry unceasing, and honesty unsuspected, he has been for many years attending the duties of his station here—and his opinion is entitled to weight. If, therefore, six dollars was considered by the House as sufficient allowance for mileage, it was all-sufficient as a recompense to the members when stationary here. Being about to take a course, which, connected with his former votes, would, without explanation, assume the appearance of discrepancy—an idea he abhorred as an individual, or as a member—he had thought it his duty to make these remarks. They were drawn from him by the necessity, which every man in public life is under, to keep far from him the suspicion of a want of firmness, or of vacillating policy.

Mr. LITTLE thought it necessary, after what the gentleman had said, to show that such conduct as he had referred to was certainly not imputable to him, (Mr. L.) I did, indeed, vote to strike out nine and insert six, not that that sum accorded with my views, which were to fill up the blank for pay and that for mileage, each, with eight dollars. This was a matter of opinion, on which men must judge for themselves. Having himself acted consistently, he imputed no incorrect motives to others, and he hoped none would be imputed to him.

Mr. COMSTOCK, of New York, said he should vote in favor of the proposed reconsideration. His mind had arrived at the conclusion, that the compensation ought to be eight dollars per diem for attendance, and eight dollars for every twenty miles travel. When the question was between nine and six, he had voted to strike out nine, but with the wish that eight should be ultimately substituted for it.

Mr. HARRISON also favored the motion for reconsideration, which he supported by forcible arguments. Gentlemen living on the stage line, whose votes had carried the reduction from nine to six, were perfectly unapprized, he believed, of

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the expenses and labors of those who were obliged to travel wretched roads with their own horses, &c.

Mr. PITKIN, of Connecticut, declared himself of the opinion that the allowances for pay and for mileage ought to be the same. This principle had been long settled, approved, and acquiesced in; and he hoped would not now be varied. He hoped, therefore, gentlemen would not be deterred from voting for a reconsideration of the former vote on this point, by any consideration foreign to the merits of the question.

The question on reconsideration was then taken, and decided in the affirmative, and the allowance for mileage was fixed at eight dollars for every twenty miles, by a considerable majority.

Mr. STROTHER then rose to make the motion he had indicated, to strike out the word eight and insert six dollars, as the daily pay; but the motion was decided to be out of order, the House having already refused to insert the word six.

Some verbal amendments, involving no principle, but which produced considerable conversation, were then disposed of.

The question having been stated, "Shall the bill be engrossed and read a third time?"—

Mr. STORRS, of New York, said he should vote for the bill, embracing an allowance of eight dollars per day. In so doing, he sacrificed his own opinion, which was in favor of a higher sum. He was the more induced, however, to agree to vote for the rate of eight dollars, because no gentleman who was of the committee who reported that bill had expressed himself in favor of a lower rate of allowance than that now established by the bill, of eight dollars per day, and eight dollars for mileage.

Mr. HOLMES, of Massachusetts, begged leave to correct the gentleman, for he had himself been in favor of six dollars per day, and six dollars for travelling allowance.

After an unsuccessful motion, by Mr. COBB, to adjourn, and an equally unsuccessful attempt by Mr. MORTON, to have the yeas and nays ordered on the question, the bill was ordered to be engrossed for a third reading to-morrow, without a division.

### WEDNESDAY, January 7.

A message from the Senate informed the House that the Senate have passed bills from this House of the following titles, to wit: An act for the relief of Samuel Aikman, and an act for the relief of Joel Earwood; with amendments, in which they ask the concurrence of this House.

The said amendments were read and severally referred to the Committee on the Public Lands.

On motion of Mr. MERCER, a committee was appointed to inquire into the expediency of causing to be printed the secret journals of the proceedings of the Congress of the United States, down to the Treaty of Peace in 1783, together with the correspondence of the Government of the United States with the Ministers and Agents

thereof in foreign countries, down to the same period of time; and that the same committee be also instructed to inquire into the expediency of causing to be printed the journal of the General Convention which framed the Constitution of the United States, and that the committee have leave to report by bill or otherwise.—Messrs. MERCER, BALDWIN, FORSYTH, PLEASANTS, and SPENCER were appointed the committee.

On motion of Mr. P. P. BARBOUR, the House proceeded to the consideration of a report of the Committee of Pensions, adverse to the prayer of the petition of Edmund Brooke; which report Mr. B. moved to reverse.

This motion gave rise to considerable debate, in the course of which Mr. BARBOUR and Mr. MERCER opposed the report and Mr. RHEA supported it. The debate resulted in referring the report to a Committee of the Whole for further consideration.

Mr. RICH, of Vermont, after observing that it appeared to him the business of the session had so far progressed that the House should meet at the usual hour of *eleven* instead of *twelve*, made a motion to that effect.

This motion was opposed by Messrs. JOHNSON, of Kentucky, LIVERMORE, MERCER, and RHEA, who attributed the unusual progress of business at the present session to the time which that rule allowed to the committees to mature business for the consideration of the House, &c.; and was supported by Mr. RICH, who remarked that the House had sat later in consequence of the lateness of the hour of meeting, and that in fact no time was gained, but some inconvenience felt, from the present arrangement.

The motion was finally ordered to lie on the table.

### CONTEMPT OF THE HOUSE.

Mr. WILLIAMS, of North Carolina, rose, and addressed the House in the following words:

Mr. Speaker, I lay before the House a letter addressed and delivered to me by a person called Colonel John Anderson. That man has mistaken me much. Wherever I am known, at this place and in the country from whence I came, no attempt of the kind would have been made. I feel it a duty to lay the letter and the statement thereon, made by myself, before the House. My feelings are too much excited, nor would it be my duty to make any remarks on the subject. It is for the House to determine what shall be done.

The papers handed, by Mr. WILLIAMS to the Clerk, were then read as follows:

WASHINGTON, Jan. 6, 1818.

HONORED SEN: I return you thanks for the attention I received on my claims to pass so soon. Mr. Lee will hand you some claims from the River Raisin, which will pass through your honorable committee; and I have a wish that the conduct of the British in that country may be related in full on the floor of Congress; which will give you some trouble in making out the report, and supporting the same. I have now to request that you will accept of the small sum of five hundred dollars, as part pay, for the extra trouble I



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give you; I will present it to you so soon as I receive some from Government. This is *confidential*, that only you and me may know anything about it; or, in other words, I give it to you as a man and a mason—and hope you belong to that society. Sir, should it happen that you will not accept of this small sum, I request you will excuse me; if you do not accept, I wish you to drop me a few lines; if you accept, I wish no answer. I hope you will see my view on this subject; that it is for extra trouble.

I will make out a statement, and present the same to the committee, which will be supported by General Harrison, Colonel Johnson, Mr. Hulbard, Mr. Meigs, Postmaster General, Governor Cass's report as commissioner, and others. Relying on your honor as to keeping this a secret, and your exertions in passing these claims as soon as possible, I need not inform you, that we are as poor unfortunate orphan children, having no representation in Congress—so must look on your honorable body as our guardians. Pardon this liberty from a stranger.

I am, with high esteem, your most obedient and humble servant,

JOHN ANDERSON.

The Hon. LEWIS WILLIAMS.

After breakfast this morning, George, a servant, came into the dining room, and told me that a gentleman was in my room waiting to see me. I stepped into my room, and Colonel John Anderson was there. He handed me a letter, observing at the same time, that he had prepared that letter for me, and that, perhaps, it would require some explanation. I read over the letter with attention; and, having done so, observed to Colonel Anderson it was a very surprising communication. I then started to Mr. Wilson's room, immediately adjoining my own. When, in the act of opening my own door, he begged I would not show the letter. I made no reply to this, but stepped into Mr. Wilson's room, and asked him to do me the favor to walk into my room. This Mr. Wilson did, following on immediately behind me. After we had got into my room, in the presence of Colonel Anderson, I handed the letter to Mr. Wilson, and, observing that it was a very extraordinary communication, requested him to read it. When Mr. Wilson had read, or was nearly done reading, the letter, I told Colonel Anderson that I repelled, with indignation and contempt, the offer he made to me in the letter. Colonel Anderson said, he asked my pardon; that it was designed only as a small compensation for the extra trouble he expected to give the Committee of Claims in examining the claims from the Michigan Territory, and exposing the conduct of the British during the war; that it was foreign from his intention to attempt anything like a bribe; and requested me to burn the letter, or to give it to him. I told him I should do neither; that his offence was unpardonable, such as I could not forgive, and ordered him to leave the room instantly. Col. Anderson then begged pardon, and asked forgiveness with excessive earnestness. I told him I would listen to none of his apologies; that his offence was an attack upon the integrity of Congress generally, and upon mine personally and particularly; that no one should ever have my pardon, or expect my forgiveness, who should suppose me capable of such an influence as he had attempted to practise upon me. Again, I told Colonel Anderson to leave my room. He advanced to the door, where he stood for some time, endeavoring to obtain my pardon, as he said. I told him

it was in vain to ask it; that, as a member of Congress and of the Committee of Claims, it was my duty to examine his claims, and, if just, support them; if unjust, oppose them; that his offer was an attempt to influence my mind in opposition to my duty, and, as such, could not be forgiven. He then desired me either to burn the letter, or give it to him. I replied that I should do neither, and again ordered him to leave my room. Whereupon, he did leave the room. Mr. Wilson, after talking on the subject of the letter for some time, suggested to me the propriety of calling in Mr. William P. Maclay. I stepped to his room; but, as Mr. William P. Maclay was not in, I asked Mr. William Maclay, the room-mate of Mr. William P. Maclay, to come to my room. He complied with my request; and, shortly after he arrived in my room, Mr. William P. Maclay also stepped in. These gentlemen, Messrs. Wilson, William Maclay, and William P. Maclay, were in my room at the time the servant called to Mr. Wilson, and said a gentleman was below wishing to see him. Mr. Wilson walked out of the room, and was gone a few minutes. After he returned, he observed that Colonel Anderson was the person who had sent for him; that Colonel Anderson's business was to obtain his interference to put a stop to further proceedings on the subject of his letter to me. The precise conversation between Mr. Wilson and Colonel Anderson can be related by the former with minuteness.

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The papers having been read through, Mr. W. WILSON, of Pennsylvania, referred to in the above narrative, handed in a statement of the facts which fell under his observation, entirely corroborating those stated by Mr. WILLIAMS, as far as they came under the observation of the former.

Mr. FORSYTH, of Georgia, moved that the House do come to the following resolution:

*Resolved*, That the Speaker do issue his warrant, directed to the Sergeant-at-Arms attending the House, commanding him to take into custody, wherever to be found, the body of John Anderson, and the same in his custody to keep, subject to the further order and direction of this House.

Mr. HARRISON, of Ohio, rose in consequence of his name having been referred to in Colonel Anderson's letter. He had met with Colonel Anderson, he said, in the course of his military service, and had always heard him regarded as a highly respectable man; and well knowing his services, and the sufferings of his family, during the war, he had felt a warm interest in his favor. In the course of this morning, Colonel Anderson had sent for him and his friend, Colonel Johnson, out of the House, and, with all the agitation belonging to terror or to conscious guilt, had informed them of his having done an act which he feared would be regarded, as Mr. H. was sure it would by every member, as calling for the severest animadversion. They had informed him, Mr. H. said, that they would not justify his conduct; nor, were it brought before the House, could they say anything in extenuation of it.

Mr. JOHNSON, of Kentucky, expressed his sincere regret on account of the occurrence which had just taken place, not on account of the indi-

vidual implicated—though, surely, he was to be pitied—but on account of the gentleman from North Carolina, who, on this occasion, had taken that course dictated by a just sense of his own honor and the dignity of his official station; and on account of the suffering inhabitants of Detroit and Michigan, generally, that they should have misplaced their confidence in one, whom, until this day, Mr. J. said, he had himself held in the highest estimation. It must have been infamy of motive, or the grossest ignorance of the nature of the Representative character that could have produced this unwarrantable conduct.

Mr. TERRY, of Connecticut, inquired whether, according to our forms of proceedings, and to our Constitutional provisions, a general warrant, as proposed, could be issued? Was it not opposed, in itself, in its nature, to the principles of civil liberty?

The SPEAKER observed that, in the practice of the House, happily, instances were extremely rare, where such a warrant became necessary; no such case had occurred within his observation. But there could be no doubt, when an offence was committed against the privileges or dignity of the House, it was perfectly in its power to issue a warrant to apprehend the party offending.

Mr. FORSYTH turned to a case on record—and he was sorry there was such a case on record—where this proceeding had taken place, in the year 1795, in which a bribe in land had been offered to one or more members. Mr. F. then confirmed his motion to the terms of that precedent, as above stated, from which it had before a little varied.

Mr. LIVERMORE, of New Hampshire, asked, for information merely, whether the fact on which the warrant was to be issued, should not first be substantiated by oath. The statement came, he knew, from a most respectable source; but was not an oath necessary to justify such a warrant?

The SPEAKER said—Certainly not.

The question on Mr. FORSYTH's motion was then taken, decided in the affirmative, and ordered to be entered *unanimously*.

The warrant was forthwith issued.

#### COMPENSATION TO MEMBERS.

The order of the day being announced for the third reading of the bill on this subject, Mr. HARRISON said, he was persuaded that the members of this House who had voted for a compensation beyond the ancient allowance of six dollars, had voted under great embarrassment, pressed as they were on the one hand by a sense of duty and of justice, and on the other by that delicacy which must be felt when they were acting as judges in their own cause. He thought, however, that there was a mode by which their feelings would be saved, and which, if adopted, would be as highly acceptable to the people as it would be honorable to their representatives. It would evince a disinterestedness and magnanimity which could not fail to produce the most happy effects, and finally fix the compensation at the sum which their disinterested judgments

should deem right. Being satisfied that it was a question to be determined rather by feeling than argument, he would say no more, but submit a resolution to recommit the bill, with instructions to amend it so as to fix the compensation for the present Congress at six dollars, and for the ensuing Congress at eight dollars.

On suggestion of Mr. MILLER, of South Carolina, the question was so divided as to be first taken on recommitment simply, without instructions.

Mr. WILLIAMS, of North Carolina, said, he hoped the motion made by the gentleman from Ohio would prevail; the occurrences of this morning would prevent him from taking so much share in the advocacy of this motion as he would otherwise do. But, said he, notwithstanding my indisposition, notwithstanding the late excitement of my feelings, I cannot permit this motion to be decided without offering my reasons in favor of it. The principal reason now offered in favor of the bill is, that the depreciation of money makes it necessary to increase the compensation of members. On this point let one fact be stated. During the period of the thirteenth Congress, a proposition was made to increase the pay of members. The reason assigned at that time in favor of the motion was one of those we now hear—the depreciation of money. But if my recollection serves me, that proposition was almost unanimously rejected. The depreciation of money was then at its height, if the term can be applied to such a state of things; and if the depreciation of money had no effect on that decision, surely it can have none now. Since then money has appreciated—the banks now pay specie for their notes; commerce flows in its ordinary channels; the necessities of life are to be purchased at a cheaper rate than formerly; and in every respect the measure never was less called for since its first agitation than it is at present. Another reason in favor of recommitting the bill for the purpose of reducing the amount of compensation to be allowed to members is, that when the subject was tried at the first session of the last Congress, many gentlemen conceived it indelicate to vote money into their own pockets; no one could suppose that the members who composed the House at that time, would vote more money into their own pockets than they honestly thought they, as well as every subsequent Congress, were entitled to receive. But, notwithstanding my full conviction of the disinterestedness of every gentleman on that occasion, I did feel a delicacy on the subject which alone would have restrained me from voting in favor of the proposed increase. I would oppose the present increase on the same ground. Questions of this sort must be determined by every gentleman's own feelings. What I could do another might refuse; and what he could do with perfect freedom I might object to. The feelings of a gentleman must be his only guide; and as they belong exclusively to himself, no one has a right to interfere with his determination. The argument which has always been offered in sup-

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port of the increase of pay, is founded on the supposition of a principle entirely too selfish. Our constituents have seen the fallacy of it. If a man enters the public service when the compensation is eight dollars a day, but would abstain from that service when the compensation is only six, it is evident that money, and not the good of the country, may be considered the governing motive. How much this will detract from that high value, that reverential regard in which patriotic labors have ever been held, I shall not now undertake to describe. The public service, in every age and country, at least in every republican age and country, must be attended by some sacrifice of personal ease or individual emolument. Without this, why should the disinterestedness of the patriots of ancient and modern times have ever been so celebrated? I do not mean to impeach the motives of gentlemen in voting for this bill. Their motives in voting for this bill, and every other bill on this floor, must be considered honorable and correct. I mean, therefore, only to say, that the argument adduced in support of the bill is founded, as I think, on the supposition of a principle entirely too selfish; and that in it I can see no room for the exercise of those virtues which have distinguished the illustrious men of every age and country. I, sir, have always been in favor of six dollars; when the question was brought before us at the first session, and also at the second session of the last Congress, I was opposed to the increase of pay. I see at the present session no reason for changing the vote heretofore given; and I hope that the bill allowing eight dollars will be recommitted, for the express purpose of allowing to members only six. These, with some other remarks not heard, were delivered by Mr. W. in opposition to the bill, and in favor of the recommitment.

Mr. Cobb, of Georgia, said that he too was in favor of a recommitment of the bill, but not for the reasons suggested by the gentleman from North Carolina. Nor could he conceive upon what foundation it could be urged, as a reason for reducing the daily pay to six dollars, that to make it a higher sum was voting money into their own pockets. The fact being that there was now in existence no law on the subject, the matter stood precisely in the same situation as when it was taken up by the first Congress under the Constitution. The question then is, said Mr. C., as if we were legislating for the first time on the subject, what is the proper compensation? I have no fear, said Mr. C., of being charged with voting money into my pocket. The Constitution contains a provision requiring us to fix our own compensation; and, in the part of the country which I represent, it is expected that the Representative of the people shall vote for such a compensation as he ought reasonably to receive. On this subject, as on all others, Mr. C. said he should, as expressed by a gentleman some days ago, vote exactly according to his own opinion. He felt himself trammelled by no instructions, by no expression of public opinion. Perhaps, he said, it

was a happy thing for him that he represented a State where this doctrine of the right and obligation of instruction was out of the question. In that State, the Representative in the Legislature of the State is sworn to act according to his own judgment; and, Mr. C. said, he did not suppose that he was sent to this body on any different principle. He should vote to recommit the bill, he said, on the ground that the compensation it allowed was too small, in favor of which position he could adduce a great number of reasons. Most of them were old and hacknied, it was true; therefore it was not necessary to go over them in detail. But he certainly thought them very strong. He called upon any gentleman, for instance, who was in his situation, and, in so doing, he called upon a majority of the House, whether he would say that six dollars per day were a sufficient compensation? Putting out of view the argument that a sufficient compensation was necessary to put the members beyond the reach of Executive influence; putting aside the consideration that persons low in fortune ought to be enabled to come here, let us see, said Mr. C., whether there be not a stronger reason for an augmented compensation. I, said he, am a married man. To be sure I do not wish the public to support the whole of my family; but if I were to say I did not wish my wife to come with me to the session, it would be the same as if I were to say I am ashamed of my wife. Unless gentlemen similarly situated were prepared to say this, he could not see why they should be squeamish in allowing themselves a little of something to maintain their wives. If any gentleman situated as himself would make a calculation of what it would cost him to bring his wife here, not every session, but at every other session—and that was little enough in all conscience—he would find that six dollars per day would leave him in debt. Calculating the compensation at eight dollars per day, a member bringing his wife only with him would find, that, after paying his and her board, that of a servant and the horses that brought them here, he would have but six dollars per week left for his contingent expenses. He would ask any man of common feeling, he had almost said of common sense, whether six dollars a week was anything like sufficient for that object? A man, to keep within his allowance, must at once make up his mind to immure his wife, to shut her from the face of day, because he cannot afford to put her in an apparel fit to appear abroad. This reasoning, Mr. C. said, might appear novel; but it was nevertheless true. A gentleman who had no family, wife or child, would at the same rate have a surplus of thirty dollars a week for his clothing and contingent expenses; and, Mr. C. asked, whether this was more than sufficient for the necessary expenses of any gentleman—a term, which he hoped, was well understood in the House. His opinion was, that the compensation contained in the bill was too small even for a single man, but certainly for a man with a family. He was therefore in favor of recommitment; but under a hope that so far

from reducing the compensation to six dollars, it would be increased to nine for a single man, and twelve for a gentleman who will bring his family with him. In expressing this hope, he said, he had another view. Some gentlemen appeared to be very fond of serving in this House from patriotism, pure patriotism. If there should be any gentleman who wished, under this consideration, not to take nine dollars, Mr. C. wished him to be authorized to take just as much less as he pleased, and leave it to those who were willing to take more, to fight it out with their constituents. Mr. C. said he was willing to leave that matter with his constituents; if they believed him right, they would return him here again; if otherwise, no doubt they would leave him out, and he should retire to a business which was infinitely more profitable to him than that of a legislator at nine dollars per day.

The question was then taken on the motion to recommitt the bill, and decided in the negative—ayes only 47.

The bill to fix the compensation of Senators, Representatives, and Delegates in Congress, was then read a third time; and the question having been stated, "Shall the bill pass?"

Mr. MOSELEY, of Connecticut, said he did not rise for the purpose of detaining the House with a speech on the present bill; so far from it, he rejoiced at the prospect of its being disposed of without a protracted debate, for he believed no possible good could result from it. The subject was as well understood as it ever could be. Gentlemen who were members of the last Congress must surely be satisfied with the long and tedious discussion which then took place; and gentlemen now present, who were not then members, he presumed were no less familiar with the subject, and some of them perhaps in situations to obtain more useful light and knowledge upon it than those confined within these walls. But, while he rejoiced at the prospect of a decision of this question without another Winter's debate, he regretted extremely that the honorable gentleman from Kentucky (Mr. DESHA) should suppose that there existed a disposition in the House to press the bill through with too great precipitation, and without due deliberation. Mr. M. considered the power confided to Congress by the Constitution of determining the compensation for their services as the last which should be abused; and he said he should be as unwilling as any gentleman to give his vote for a compensation which he should deem extravagant. He voted for the bill as reported by the committee, and he was satisfied with it in its present state. A dollar more or less could not greatly affect the Treasury, nor vary the fortunes of those who might be entitled to receive it. And as it respects those gentlemen who seem to think six dollars per day the only suitable compensation for members of Congress to receive at all times and under all circumstances, he rejoiced, on their account, that the variation from that sum was no greater, because honorable gentlemen in the minority, should the bill pass, would no doubt feel themselves as

much bound by its provisions as though it had met with their entire approbation; and in proportion as the amount should exceed what, in their estimation, was just and right, must be their regret at being compelled to receive it.

Mr. DESHA, of Kentucky, rose, in justification of his remark, on yesterday, that the bill had been hurried to its passage. He had, he said, done ample justice to the House, and he wished he could say, with the same truth, that the House had done the same justice to him. So far from this, however, Mr. D. said, he never witnessed in this House before so great a degree of indecorum and impropriety towards any member. He wished not to wound the feelings of any one, but he must most pointedly censure the treatment extended to him yesterday. Had he been singled out for rudeness by any individual member, he should have no difficulty how to proceed—man could always meet man—but that was not the case. Mr. D. then proceeded to remark on the bill itself, and said there was no good reason for increasing the compensation at this time, at so extravagant a rate. The plea of the depreciation of money was much weaker now than it was four or five years ago, when a proposition to increase the pay of the members was laughed out of countenance; and, for his part, Mr. D. said, he felt it a great indelicacy, believing as he did, that it was unnecessary, to vote to themselves this high compensation. Six dollars, he maintained, was a sufficient compensation; and he was still of opinion that the people would not be satisfied at the pay being raised above that sum. After repeating more at large some of his arguments of yesterday, Mr. D. said, that he himself represented a people as liberal and as high minded as any others in the Union, and he was certain they disapproved an addition to the former compensation.

Mr. STRONG, of Massachusetts, commenced his remarks by the observation that it was enough for any man to answer for his own faults, without taking on his shoulders those of others. He regretted, he said, that the gentleman from Kentucky had been three times interrupted in his speech yesterday, by disorder in the House. He regretted that the gentleman had declared so, and that a true report of his speech had gone abroad. Was not this, Mr. S. asked, a disgrace to the House? Was it true? Except a little interruption when the gentleman rose, by the call for the question, (which he presumed it was the right of every gentleman to make,) Mr. S. said, the disturbance had been entirely in the gentleman's own imagination. Not only, however, would the report of yesterday's debate circulate through the papers, but of this day's also, in which the statement had been repeated. If true, said Mr. S., we ought to bear it; if not, we ought not to submit to the imputation. What is the representation which goes abroad to the people? Why, that, whilst debating about fixing our own compensation at a rate enormously high, as the gentleman had stated, this House had been so lost to a sense of its own dignity, as not

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to suffer a member to speak in opposition to it, Mr. S. was not willing that this representation should go out to the public uncontradicted.

Mr. OGLE, of Pennsylvania, said, he should, in voting against this bill, fortify himself by a strong authority, wherein we learn that a man who will not provide for his own household, is worse than an infidel, and one who denies the faith. Was he, he asked, to sit here and destroy the comfort of his own family? If Congress had, in 1791, fixed the compensation at six dollars per day, when they were living in Philadelphia at a board of perhaps four dollars per week, nine was certainly as small an allowance as ought now to be made. Mr. O. said, he should vote against the bill, because he did not believe he should do himself justice by taking eight dollars per day. If, in consequence of his vote, the bill perchance should fail, Mr. O. said, he could afford to spend this Winter here for nothing; like the old veterans of the Revolution, they fought for nothing, said he, and surely we can afford to sit here for nothing. If gentlemen were conscientiously to examine and express their own feelings, divested of every extraneous consideration, Mr. O. said, he was satisfied that there was at this moment a majority of the House who did not think nine dollars per day too great a compensation. Would a farmer, a hirer of laborers, expect men to work for him for nothing, because he was a great and rich man, merely for the honor of being his servants? Certainly not; nor, did Mr. O. believe, that the people of the United States wanted their representatives to come here and work for them for nothing. Gentlemen talked about public opinion. Why, he said, if you walk through a meadow, in which there are fifty bullocks and fifty grasshoppers, you will find the grasshoppers make the most noise. This was the case with the public opinion they were told of—it was not the opinion of the solid people of the United States. Call at the grogshops, and you may find it; but, call at the house of a real farmer, who earns his bread by the sweat of his brow, and he will tell you he wants no man to come here and serve him for nothing.

Mr. DESHA rose, and adverted to what had fallen from Mr. STRONG, which he thought required explanation. He wished to know whether that gentleman meant to intimate that he (Mr. DESHA) had yesterday or to-day intentionally stated what was not correct?

Mr. STRONG said, he meant to state nothing of the gentleman's intentions. He meant to say that he thought the House, on yesterday, remarkably attentive to the gentleman's remarks, and he appealed to every other gentleman of the House whether the fact was not so. If it was so, said Mr. S., ought we to suffer the imputation to the contrary to go forth? I did not mean to say, said Mr. S., that the gentleman said what was not true, but that he had stated what appeared to me not to be the fact.

The question on the passage of the bill was then decided, as follows:

YEAS—Messrs. Abbott, Adams, Allen of Massachu-

setts, Allen of Vermont, Anderson of Pennsylvania, Anderson of Kentucky, Austin, Ball, Barber of Ohio, Bateman, Bayley, Beecher, Bloomfield, Bryan, Butler, Clagett, Claiborne, Colston, Comstock, Cook, Crafts, Crawford, Cruger, Culbreth, Cushman, Darlington, Drake, Earle, Ellicott, Floyd, Forney, Forsyth, Fuller, Gage, Garnett, Hale, Hall of Delaware, Hall of North Carolina, Herkimer, Hitchcock, Hogg, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Linn, Little, Lowndes, W. Maclay, W. P. Maclay, McCoy, Marchand, Mason of Massachusetts, Merrill, Middleton, Moore, Moseley, Jeremiah Nelson, H. Nelson, T. M. Nelson, Nesbitt, Orr, Owen, Palmer, Parrott, Patterson, Pawling, Peter, Pindall, Pitkin, Pleasants, Porter, Rich, Richards, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Ruggles, Savage, Schuyler, Scudder, Settle, Slocumb, Alexander Smyth, Spangler, Speed, Storrs, Strong, Stuart, Tallmadge, Tarr, Terrill, Terry, Tompkins, Townsend, Tucker of Virginia, Upham, Walker of North Carolina, Wallace, Wendover, Williams of New York, Wilkin, and Wilson of Pennsylvania—109.

NAYS—Messrs. Baldwin, Barbour of Virginia, Bassett, Bellinger, Bennett, Blount, Boden, Boss, Burwell, Campbell, Cobb, Desha, Edwards, Ervin of S. Carolina, Folger, Harrison, Hasbrouck, Hendricks, Herbert, Herrick, Heister, Holmes of Massachusetts, Huntington, Lewis, Livermore, McLane, Marr, Mercer, Miller, Morton, Mumford, Murray, New, Ogle, Parris, Poindexter, Quarles, Reed, Rhea, Ross, Sampson, Sawyer, Shaw, Sherwood, Silsbee, S. Smith, B. Smith, J. S. Smith, Southard, Spencer, Strother, Taylor, Trimble, Tucker of South Carolina, Tyler, Walker of Kentucky, Whiteside, Whitman, Williams of Connecticut, and Williams of North Carolina—60.

So the bill was passed, (at eight dollars per day and eight dollars mileage,) and sent to the Senate for concurrence.

#### PUBLIC BUILDINGS.

On motion of Mr. PARRIS, of Massachusetts, the House resolved itself into a Committee of the Whole, on the bill making further appropriation for repairing the public buildings.

Mr. P. explained the occasion of the introduction of the bill for a partial appropriation, which was to cover arrearages which required payment, and to make a partial appropriation for going on with the works, &c. He moved to fill the blank for the amount of appropriation, as instructed by the select committee, with \$200,000.

Mr. BURWELL, of Virginia, said he should have been much gratified to have seen something in the shape of estimates to sustain this appropriation. He adverted to the various appropriations heretofore made, and the necessity of some definitive system which should set a limit to expenditure, and prevent future claims for arrearages.

Mr. PARRIS said, in reply, that the amount of arrearages was about \$80,000. The reason why no estimate was now produced was, that, at the last session, a very minute calculation had been made of the necessary expenditure, and, judging from the President's house, (the cost of which had been less than the estimate,) that calculation had been uncommonly correct. The committee had many objects before them, on which they

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wished to make a general report; but what was now wished was, that enough should be appropriated to pay the arrearages, and to meet the expenditures which should be necessary during the present session, before the latter part of which the general appropriation bill would probably not pass. If the select committee had proposed too large an appropriation now, nothing was easier, if gentlemen chose, than to reduce the amount.

The proposed sum was agreed to, and the Committee rose and reported the bill to the House; and it was ordered to be engrossed for a third reading.

#### JUDICIAL RECORDS, &c.

The House then again went into a Committee of the Whole, on the bill to give effect to the judicial records and proceedings of one State in other States, Mr. FORSYTH'S motion to strike out the second section being still under consideration—

Mr. F. advocated his motion at some length, in which he was briefly supported by Mr. STORRS; and the motion was opposed much at large by Mr. BALDWIN, and supported at some length by Mr. LIVERMORE. At a late hour before the question was taken, the Committee rose, reported progress, and obtained leave to sit again.

#### THURSDAY, January 8.

Another member, to wit: from New York, DAVID A. OGDEN, appeared, produced his credentials, was qualified, and took his seat.

The SPEAKER presented petitions from sundry inhabitants of the Territory of Missouri, praying that the said Territory may be erected into a State, and admitted into the Union; on an equal footing with the original States.—Laid on the table.

Mr. PLEASANTS, from the Committee on Naval Affairs, reported a bill authorizing John Taylor to be placed on the list of navy pensioners; which was read twice and committed to a Committee of the Whole.

On motion of Mr. LINN, a committee was appointed to inquire into the expediency of establishing by law, a standard of weights and measures; and Messrs. LINN, PITKIN, SEYBERT, LOWNDES, and OGDEN, were appointed the committee.

The following resolution submitted by Mr. WALKER, of North Carolina, was read and ordered to lie on the table:

*Resolved*, That it is expedient to inquire whether any, and if any, what alteration is necessary in the several laws now in force, to make a further provision for the purpose of issuing warrants to the soldiers of the late Army of the United States, in order to obtain their patents for their military bounty lands, promised to them at their enlistment; and that this subject be submitted to the Committee on Military Affairs.

Mr. LIVERMORE submitted the following resolution:

*Resolved*, That the Committee on Private Land Claims be instructed to inquire, whether, in any case, further time than is already prescribed by law ought

to be allowed for the redemption of lands sold for direct taxes, and purchased by collectors in behalf of the United States, pursuant to law.

On motion of Mr. POINDEXTER, the said resolution was amended by directing the inquiry to be made by the Committee on Private Land Claims.

On motion of Mr. RICH, the said resolution was then further amended, by adding thereto the following:

"And that the said committee be also instructed to inquire into the expediency of making provision by law, to enable persons whose lands may have been sold for the payment of the direct tax, to redeem the same by paying such sum only, as said lands shall be justly charged with, together with reasonable costs and interest."

The resolution was then agreed to as amended.

An engrossed bill, entitled "An act making further provision for repairing the public buildings," was read the third time and passed.

A message from the Senate informed the House that the Senate have passed bills of the following titles, to wit: "An act to provide for paying to the State of Indiana three per cent. of the net proceeds, arising from the sales of the United States' lands within the same; "An act to allow the benefit of drawback on merchandise transported by land conveyance, from Bristol to Boston, and from Boston to Bristol, in like manner as if the same were transported coastwise;" in which bills they ask the concurrence of this House.

The first of the said bills from the Senate was read twice, and referred to the Committee on the Public Lands.

The last mentioned bill from the Senate was read twice, and referred to the Committee of Ways and Means.

#### CASE OF COLONEL ANDERSON.

The SPEAKER having apprized the House that the Sergeant-at-Arms had taken the body of John Anderson, pursuant to the warrant to him directed, and held him in custody, Mr. FORSYTH, of Georgia, submitted for consideration the following resolution:

*Resolved*, That a Committee of Privileges, to consist of seven members, be appointed, and that the said committee be instructed to report a mode of proceeding in the case of John Anderson, who was taken into custody yesterday by order of the House; and that the same committee have leave to sit immediately.

Mr. BEECHER, of Ohio, rose in opposition to this proceeding. The offence of this man, in every sense but a legal one, he was not disposed to deny. But it was another question, whether the House was justified in the course it was about to pursue. Was any authority therefor given in the Constitution? None. Was any law to be found on the statute-book giving it? None. The mode of punishing bribery was, to resort to a court of justice, and there only could it be punished. In this House, he said, it was impossible to proceed correctly in a trial for an offence of this character; and the trouble proceedings of this kind would impose on the House, and the



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evil of delay they would cause in their ordinary legislative business, afforded strong reasons, if others were wanting, to consult their authority, and see whether in fact the House possessed any authority to act on the case. The fifth section of the first article of the Constitution, he said, provided that each House might determine the rules of its own proceedings; but no part of the Constitution gave to the House authority to arrest and bring forward any individual for improper conduct to any member of this House. The courts of the country had made, in their practice, what is called a common law; but, Mr. B. said, if there existed any common law to justify these proceedings of the House, it was unknown to him. The great powers assumed by the Parliament of Great Britain in this respect, had been a matter of great complaint in that country; and he presumed it would not be contended that the practice of that body was to form a rule of conduct for this House. Neither, Mr. B. said, did he think it essential that this House should possess the power of arresting and bringing individuals to trial before us; the courts of justice being open to prosecution and redress for any injury of this sort. The House, as any other legislative body, possessed inherently the power to protect itself from indecorum and insult; but it had no power to confine and commit individuals for acts done elsewhere. He did not believe the House possessed authority to arrest an individual in this case, any more than for an assault and battery on a member at any distance from the Seat of Government—a power which, he contended, the House did not possess. In another part of the Constitution, he said, particular privileges were accorded to members; and the enumeration of particular powers, in any instrument of that character, was an exclusion of all others. For other injuries received, than those in violation of that clause of the Constitution, Mr. B. said, members have the same redress as any other individuals. Mr. B. said, he did not believe the House ought to have the power it was about to exercise; the Constitution had not given the House any such power, nor had it been conferred upon them by any law.

Mr. FOSYTH said, if the position of the gentlemen was correct, the House had already violated the Constitution. The object of the proposed appointment of a committee was to inquire how the House ought now to proceed. If the committee concur with the gentleman from Ohio, they would report that the individual now in custody ought to be discharged; if otherwise, they would report what further course the House ought to pursue. But, Mr. F. said, admitting that all the gentleman had said was true, it was no reason why this committee should not be appointed. Mr. F. did not wish to be understood as doubting the power of the House, because he believed it had full power to proceed; and he knew that this House and the other branch of the Legislature had, in other cases, exercised similar powers. Until he was convinced, by solemn investigation, that the House did not possess

the power, he would not, for one, consent to refrain from its exercise in the present case.

Mr. LIVERMORE, of New Hampshire, hoped, he said, that but one resolution would pass the House on this occasion, and that that one should be, that John Anderson be discharged. First, he said, on account of the irregularity of the proceeding in the first instance. Our ideas, said he, of Congressional privileges, appear to rest on our knowledge of British Parliamentary privileges; which, he conceived, were widely distinct in their natures. In Great Britain the Legislature possesses all power; and almost every act of the Parliament becomes a part of the Constitution of the land. That is an unlimited Legislature. The Congress of the United States, he said, was differently constituted. In a case of this kind occurring in Great Britain, an oath would not be required; but, said Mr. L., we are, in this respect, restricted in our power by the express declaration in the Constitution, that no warrant shall issue except sustained by oath. This provision, he said, being contained in the fourth article of the amendments to the Constitution, had more weight with him than if contained in the original instrument, having been the result of the after-thought and mature deliberation of the nation. Far be it from him, Mr. L. said, to suggest that full faith should not be given to anything advanced by the honorable member from North Carolina; as a man he believed him implicitly, but as a member not at all—no more than, as a judge, he would believe a man in court without an oath. The word of the Chief Justice of the United States himself would not be taken in court except on oath. Mr. L. said he greatly respected the gentleman he had referred to, but he did not consider the House at liberty to take a step which would compromise the meanest man in the United States, except on the oath of his accuser. Besides, said Mr. L., we have no authority over John Anderson, admitting the charge against him to be substantiated. There is no statute of the United States, though there are in most of the individual States, declaring bribery an offence. Far be it from me to contend that this body cannot protect itself; that we can do by our own rules and regulations, but we cannot extend them beyond the verge of this House. The Sergeant-at-Arms might command the whole military force of the United States, could it possibly become necessary, to put out of this House a man disturbing its peace. Mr. L. said, he knew very well there was a precedent on record of a course similar to that now proposed; and he also knew that the most eminent men of the United States deprecated that decision when it took place. When the subject was before the Congress, in 1800, he believed those who favored the proceeding sustained themselves on the authority of the practice of the British Parliament; they were a high-handed party majority, full of British notions, and fond of British precedents. Those who were opposed to that course were the whole body of the Republican members, with the great Jefferson at their head. Mr. L. hoped, he repeated,

that but one resolution would pass on this occasion; and that it should be, that the warrant for the apprehension of John Anderson had been irregularly and improperly issued, and that he be therefore forthwith discharged.

Mr. TUCKER, of Virginia, said he should not do his duty, if he did not, on the present question, give the gentleman from Georgia his hearty support; not that he was certain he should give him the same support in all his views of this subject. The proper course, in the opinion of Mr. T., would be, to provide by a general law for the punishment of contempts against either House of Congress; but, he asked, was it not the duty of the House on this, and on every other occasion, to deliberate in that manner which afforded the best lights on any subject, and which it became the dignity of the House to pursue? No matter how light the subject might be that was proposed to the consideration of the House, he should not choose to act on it, without calling on some committee of the House to take it into their particular consideration, and to produce a clear and connected view of it. And was this an occasion on which, by a hasty procedure, to depart from that course? Would the House at once declare that its members might be approached by the vilest miscreants on the face of the globe, and that it could take no steps to protect their rights? Is any member prepared to say, that there exists in this House no power to repel the approaches of bribery and corruption? The Constitution creating this body is a dead letter—is mere waste paper—said Mr. T., if we have no power to protect ourselves from violence of this description in the exercise of our duties. That part of the Constitution giving to Congress all power necessary to carry into effect the delegated powers, has no value, if it does not apply to the present case. For his part, Mr. T. said, he had no manner of doubt as to the power of this House to protect itself, and none of the expediency of the course now proposed. But, at the same time, he doubted the propriety of suffering the laws to remain in their present situation, so as to compel the House to act in this way. Until a general law should pass, Mr. T. said, he had no doubt the House had the power within itself to punish any person who should attempt to bribe one of its members. The proper course, he conceived would be, warned by this incident, to appoint a committee to report a bill to punish such offences, &c. He should not commit himself at present as to the final course for the House; but it appeared to him that every member, from the necessity the House was under of protecting itself, would wish to see that course pursued which would best promote a due consideration of the subject—which was the usual process of referring the subject to a committee.

Mr. HOPKINSON, of Pennsylvania, rose in support of the proposition before the House. This question, he said, was not a new one; it had been heretofore solemnly debated and adjudged; and all the objections now expressed had been brought forward in their greatest force, without

effect; and the precedent then established was entitled to respect. In that case to which he referred, it was well known a full opportunity was given for the freest discussion; the parties arraigned at the bar having been heard by their counsel on this question. But, Mr. H. said, the weight of that precedent was attempted to be destroyed in a most extraordinary manner by the honorable gentleman from New Hampshire, who had intimated that the House at that day did not decide the question on a knowledge of the provisions of the Constitution, but on party principles. Mr. H. begged the gentleman from New Hampshire to tell the House how he knew the motives of the members of that Congress; how he acquired the power to enter their hearts, and see that they did not decide this question on our own laws, but on those of a foreign country? Why did he seek to condemn them and their decision, by a sort of allusion, which, Mr. H. said, as an argument, would not be listened to on this floor? That respectable and enlightened Congress, Mr. H. said, had decided the question before them on the principles of our own Constitution and law; if their decision was corroborated by the practice of the Legislature of any other country, there was nothing in that circumstance to weaken the force of the precedent. But the Republican members opposed that decision! Are questions of this sort, Mr. H. asked, to be decided by the particular political denominations of those who voted *pro* or *con*? Is that to be the rule by which decisions on such questions are to be received or regarded as precedents? If so, as gentlemen took the liberty sometimes of exchanging sides in politics, that which was law to-day might not be to-morrow; and the question would be forever unsettled. The question now raised, Mr. H. considered as having been decided by an authority which though not decisive, was yet entitled to the highest respect, and ought to be respected. The observations of the gentleman from New Hampshire having been disposed of, which ought never to have been made, Mr. H. proceeded to notice some other views which had been thrown out. It had been objected to the legality of the procedure, that the statement on which the warrant was founded, was not on oath. Was not the representation of a member of this House, he asked, a sufficient ground of proceeding? The character of this House must be sunk to a low ebb, if the representations of its members were not to be received as true. In the case of Randall and Whitney, the proceedings of the House had been similar to those of this day; information of the facts was given by members in their places, and the House proceeded, as in the present case, without calling on the members to take the book and testify that what they had stated was true. In such cases, said Mr. H., we have ever been guided by precedent, and we have done right. But, it was said by the gentleman from Ohio, that there was nothing to be found in the Constitution to justify this proceeding. When, Mr. H. said, the Constitution gave being to this

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body, it gave to it every attribute necessary to its security and to its purity. The courts of justice, which had been mentioned, do exercise similar power; any attempt to obstruct the due course of justice, or to corrupt its source, is an offence punishable in a summary manner. It was equally necessary such a power should reside in this House; because, if persons hanging about this hall, with their private claims, and besetting the paths of the members, offering them bribes for their votes and influence, were to be referred to the courts of justice for their punishment, there was no protection for the independence, none for the feelings, none for the character of this House. If we are careful that the laws be purely administered, ought we not to be equally so that they are purely made? Is the juror who administers the law to have protection, and the legislator who makes the law to have none? That the courts have the power to punish contempts, is a matter, said Mr. H., which could not be doubted here; and that the Legislature possesses the same power, was to him clear, and for the same reason. Adverting to the provision of the Constitution, which privileged members of Congress from arrest during their attendance at the session of their respective Houses, and on going to and returning from the same; if the gentleman will tie us down to the letter of the Constitution, said Mr. H., how would he punish a man who should arrest a member contrary to this provision? Would he sue him at law? And where do you find in the Constitution anything by which you shall know *how* to proceed to punish him? Would not the gentleman do it in the way in which we are going on? And why? Because, said he, we possess the power to protect ourselves in the exercise of our duties. How would the gentleman proceed in the case of the arrest of himself and half a dozen of members, whose votes would turn the scale on a pending question of the highest moment? Discharge the members, and they might be arrested again, if there was no summary process against the offender. If there was no redress in such a case, but to turn the person offending over to suit or to indictment in the courts, the Constitutional provision was a mere illusion. But gentlemen themselves did not agree. One, said he, refers the House for redress of their complaint in the present case to the courts of justice; the other says that bribery is no offence, there being no law to punish it; of course the courts are not open to the complainant. So that, between them, Congress is in a strange predicament. We are, without remedy, at the mercy of every infamous man, who is disposed, either for the purpose of private malice or personal emolument, to play off his arts against the Representatives of the people. Mr. H. concluded by saying that he hoped the House would decide that it had the power, not only to protect its existence, but to preserve its character so pure and unsullied as to be exempted even from suspicion.

Mr. FORSYTH rose to correct an extraordinary mistake which the gentleman from New Hamp-

shire had fallen into in regard to the precedent to which he had referred. That precedent was found in the Journal of the year 1795, before the division of parties, which has since existed, had taken place. It was not, therefore, a party question, but a great Constitutional point, which was then decided. On referring to the Journal for the final vote, it appeared that seventy-eight members had voted in the affirmative, and but seventeen against it. For another fact he was indebted to the information of a gentleman who was in a situation to have known it, that, of those seventy-eight, thirty-nine were subsequently on the Republican side of the question, and known as Republicans in the great parties into which the country soon after divided. Among these were some of the names most dear to the Republican party, and by this he meant no reflection on those who differed from them on that question. He need only refer to the names of Gallatin, Giles, Baldwin, Findley, and many others of the same grade—and were not these Republicans? They were; and each would bear a comparison with any man who had ever since called himself a Republican. They were the master spirits who headed the Republican party when it became one, and guided it in all its movements. But, Mr. F. said, he should be glad to find out how the gentleman discovered the great name of Jefferson to support him in his doctrine? That great man was not then a member of Congress; nor, Mr. F. said, did he know that he had expressed any opinion on the question. He did not find in the Manual composed by him any expression of an opinion that the Constitution had been violated by that decision. There was a statement of the arguments on both sides of that question; but so far from expressing the opinion that the Constitution had been violated, the Manual considered the question as unsettled. It was settled, then, on the ground that this body, and all others, corporate as well as individual, had the right to protect themselves from insult and violence. How, Mr. F. asked, would gentlemen proceed to punish an individual in the gallery of this House, who should consider it a great theatre, and exercise the privilege which insolent persons use in the gallery of a theatre, of disturbing the audience and annoying the performers? Suppose some person who was unfriendly to a member speaking, or who did not like the monotonous tone of his voice, should amuse himself by throwing nuts or apples at his head; by hissing on the one hand, or applauding on the other; by what authority would the House exercise the power of driving him away, or taking him into custody? Could any one doubt the power? But was it to be found, in so many words, in the Constitution? Gentlemen might say, this would be within our own walls, and therefore a different case from that now under consideration. Mr. F. regarded them as standing on the same footing; within and without, here or in any part of the city, if a member was insulted in the discharge of his duty, this House had, in his opinion, the right and the power to punish the of-

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sender. He hoped, at all events, the House would make the inquiry, and not stay its proceedings in this case, until something stronger had been alleged against them than anything he had heard.

Mr. PITKIN, of Connecticut, said he did not rise to debate the power of this House; for, he said, unless the House had some power to protect itself and its members in their persons and integrity, from violence or insult, they might as well adjourn and go home. But he rose to refer to one or two cases which had occurred subsequently to that which had been particularly referred to, to see how far the House had proceeded. A case had occurred, in 1810, of an assault and battery on a member of this House, not within the walls of the House, not during its sitting, and originating in circumstances having no relation to his duty as a member of the House; but, while here attending his public duty, that gentleman had been considered as under the protection of the authority of the House, and the House had accordingly taken cognizance of the assault; and justly—for, if the House had not power to protect its members while going and coming therefrom, it was in vain for them to attend here. In another case, a committee had been appointed to inquire into the promulgation of certain secret proceedings of the House. The individual promulgating them was brought to the bar of the House, and compelled to answer the questions propounded to him. If he had refused to answer the questions put to him, undoubtedly he would have been committed to prison for that contempt. Having no doubt of the power of the House in this respect, he hoped the House would act as proposed.

Mr. LIVERMORE again rose. He said he should suppose that no one had understood him to say that the Republicans were right or wrong, or that the Federalists were right or wrong, or to draw any distinction between the parties into which the country had been divided. He respected good men of all parties, and none other but good men of any party. He had said that an oath was necessary to support a warrant, and produced the Constitutional provision, "that no warrants shall issue, but upon probable cause, supported by oath or affirmation." How am I answered? Why, that every member of this House is entitled to such high credit, that his word is as good as any other man's oath. The Chief Justice of the United States is sworn to support the Constitution, and to administer justice; but, he is not therefore sworn to everything, and his mere word would not be taken in this matter in controversy in any court. But, it seemed, that the rights of individuals were to be uprooted, and an express provision of the Constitution disregarded, on the word of a member, because he was sworn to support the Constitution. Mr. L. said he had as high an opinion of the credit to which members of this House were entitled, as any man could have, but he could not, in such a case as this, believe them, except on oath, considering himself bound to protect the

rights of every individual in the United States, &c. The gentleman from Pennsylvania, Mr. L. continued, had found fault with some of his expressions. A man cannot take his words out of his mouth, look at them, put them in again, and speak as he could wish; and Mr. L. said he might have gone further than he intended.—Whether those who established the precedent of 1795 were Republicans, or be they whom they might, they had acted on precedents drawn from the British Parliament, a body whose powers in this respect were not analogous to those of the Congress of the United States. The Parliament of Great Britain is a perpetual convention, of which every law and practice becomes a part of the constitution. But we are a *limited* Legislature, and the Constitution controls us. And when such a question as this is presented, how shall we get over it? Mr. L. disclaimed any intention to accuse those who established the precedent in the case of *Whitney and Randall*, of having acted wrongly, against conviction. God forbid he should have said so; but, if he had been a little warm on the subject when up before, perhaps the gentleman from Pennsylvania, (whom no man respected more than he,) had warned himself as well as the gentleman from New Hampshire. Let that gentleman, however, reconcile the proceeding of Congress to that provision which he had referred to. It was no way to put a man down to say, that one man's word is as good as another man's oath. It was saying what the Constitution had not left the House at liberty to say. But, it was asked, could Congress do nothing to protect themselves? Must they be trampled on, and spit upon, without remedy? Mr. L. said he had admitted before, and he now repeated, that the Sergeant-at-Arms, within the House, might command the whole force of the country, the Army and Militia, and, supposing such a case possible, might bring a seventy-four up the Eastern Branch to fire upon the Capitol; but the House had not the extensive power for which gentlemen now contended. Suppose he were to rise and say, that, as he was coming here, the Governor or Chief Justice of New Hampshire had offered him a bribe; would this House send out its warrant and bring him here? Would this be Constitutional? He hoped not. If the procedure would not be warrantable as to such men, neither would it to the meanest man in the State, for no man there was a slave; and Mr. L. would not stretch the power of the Government to oppress the meanest or the greatest. As to the suggestion of the gentleman from Virginia, to pass a law on this subject, Mr. L. highly approved it. Let us, according to the system of Mr. Jefferson, hang up rules for the inspection of all, which may direct the conduct of the citizen, and, if they are broken, punish the offender. But, with such views, would the gentleman punish poor Anderson, because he sinned against a law before the law was made? Mr. L. did not like such doctrine. He concluded by saying that, though what he had said might be thrown away, he had thought it his duty to offer it. He

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might have been warm, he said, but it was time to be warm when a man could no longer keep himself cool.

Mr. SERGEANT, of Pennsylvania, said, as the motion now before the House, was merely for the appointment of a committee of inquiry, he could see no reasonable objection to it. The matter proposed to be inquired into was not, he said, a question merely between the individual accused and the House; but it was one in which the nation was interested; and the House would commit as great an error if they neglected to inflict a proper punishment on the offender in such a case, as if they were to inflict punishment where no offence had been committed. The immediate question was not, whether the members of the House were assailable by bribes; whether their feelings were to be wounded with impunity; whether they were liable to the arts of seduction; but it was a general question whether the House would or would not inquire what authority it had to punish those offending in this respect. If we have the authority, said Mr. S., we are bound to inflict punishment in the case before us; for if the offence supposed to have been committed shall be proved, can any case occur hereafter more requiring the exercise of the powers of this House? If you will not exercise what power you possess now, there is no species of attempt which may not be made with impunity on the honor or on the feelings of this House; there is no practice, however corrupt, which may not be attempted. For upon whom was this attempt made? Upon a member who is at the head of the Committee of Claims, that committee whose business it is to determine between the claims of individuals and the interest of the United States, coming in conflict before them; in doing which the chairman of that committee has to contend, on the part of the United States, against the interest, urged in every possible shape, of the individuals whose claims are preferred to this House. And would the House allow the member who occupies that station of sentinel at the door of the Treasury, to be placed in a situation to be exposed to all the gross and corrupt attempts which may be made on him, if they are permitted to be made with impunity? Surely not. If, then, Mr. S. repeated, the House would not, in the present case, exercise the power of punishing for contempt, there never would occur one in which it would.

As to the question immediately before the House, Mr. S. said, a reference to a committee was the usual course in all matters coming before the House. Why not then pursue the usual course in a matter of as much importance as this? It appeared to him, indeed, that course was inevitable; the House had gone so far in its proceedings that it was impossible to stop at this stage, unless it could be shown more clearly than it had been, that the warrant which had issued was altogether without authority.

There were, Mr. S. said, in the present, as there must be in all similar cases, two offences committed; the one, a crime for which the individual

might be handed over to the courts of justice for the punishment; the other an offence against this House, for which the individual might be proceeded against and punished in a summary manner. He did not say that both these courses might not be pursued. But he did admit that the question whether the House should or should not interfere, was at all times a question on which a sound discretion must be exercised when the case arises. In this way he would answer the gentleman from New Hampshire, who had supposed extreme cases. This House, said Mr. S., may certainly in such cases rely on its own discretion, that it will not be impelled into a course which is unjust. The case now before the House was not such a case, however, but one of a totally different character. If the House proceeded no further now, the privileges of the House were surrendered in every case, unless for what should be done in the face of the House. If the doctrine of the gentlemen from Ohio and New Hampshire prevail, said Mr. S., we shall be assailable at our door, on the staircase, everywhere until we come into this House, and this House is organized. Was this possible? And yet, he said, he did not suppose cases as extreme as those put on the other side.

As to the omnipotence of the British Parliament, to which was imputed their extensive privileges, Mr. S. said that Parliament consisted of two branches, the Lords and the Commons, exercising legislative authority. But the authority exercised by those bodies in the punishment of contempts, and in the protection of their privileges, was not a legislative act; not an act of Parliament at all, but of the individual houses. The House would see at once the distinction between the exercise of the legislative authority, and of the right and power of self-protection; and the gentleman from New Hampshire would see that his remarks on the omnipotence of the British Parliament afforded no argument against the exercise of power in regard to the privileges of this House, somewhat analogous to those of the British House of Commons. Neither was it correct, Mr. S. said, that the Houses of Parliament, in respect to privileges, were omnipotent. Gentlemen might recollect a case which had occurred during the trial of Warren Hastings, when a clergyman by the name of Logan, thinking Hastings unjustly dealt by, entered into an acrimonious vindication of him against the charges preferred by the House of Commons. That House did not in that case proceed with a summary process, but directed a prosecution to be commenced against the publisher; and that case had since become famous by the name of the prosecution against Stockdale.

Mr. S. said, he was free to confess that with respect to many of those distant attacks upon the House in public prints, or otherwise, which appeared to touch the House and yet scarcely reached it, he should say, leave them to the ordinary administration of justice; but when the hands of corruption were extended to this House, he hoped the Constitution would never fail the

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House in exercising an authority at once, because it was an offence which punishment ought to follow, and to follow speedily. For, said he, if practices of this kind are indulged; if members of this House, exposed to such attempts, are to be left individually to follow the persons to punishment, we may calculate on the indisposition of the member to remain here to prosecute to conviction, and there are so many chances of escape that there is reason to apprehend there will occur many instances of this character—not quite so strong, I trust—but of minor grades, which the chance of impunity will encourage.

Mr. S. concluded by saying that he held it to be the solemn duty of the House, if they have the authority under the Constitution, not to flinch from the exercise of it; because the exercise of it was of high importance not to this House only, but to the people of the United States, whose dearest interests are concerned in it.

Mr. BALL, of Virginia said, if this proposition to appoint a committee had been made in the first instance, he should have had no objection to the proposed inquiry. But he was under the impression that this inquiry into their power ought to have been had before the warrant was issued. Suppose this person had been in a distant part of this country, in the District of Maine, for example: would this House arrest him, bring him here, and then inquire whether they had power to do so or not? Would not this be a grievance of the highest character against the laws of the land, and against the Constitution itself? Supposing, after putting a person, accused of contempt, to all this inconvenience, and holding him in durance, it should appear that he was not amenable to the authority of this House; would not this proceeding have been manifestly wrong, and an oppression of the citizen? Had we not better, said Mr. B., suffer a thousand insults, than trample on the personal liberty of the citizen? The liberty of the citizen was guarded by the express provisions of the Constitution; and he would not, he said, exercise any authority restraining it, unless unsupported by the Constitution. That was his guide; he had taken an oath to support it, and that instrument provided that no warrant shall issue, unless supported by oath. The warrant against John Anderson had, therefore, issued in contradiction to the Constitution. The proper course would be to discharge him from the warrant which had been illegally issued; to investigate the subject; and, if it should be decided that he was amenable to the House, then to arrest him and punish him, but not, otherwise, to proceed further in the business.

Mr. HUBBARD, of New York, rose to suggest, that, reasoning from the context, the provision of the Constitution which had been quoted, referred only to courts of justice, and could not be construed to apply to warrants of the description now under consideration.

Mr. JOHNSON, of Kentucky, said he had no objection to vote for the resolution, if it contemplated merely an inquiry into the proper mode of proceeding. Whilst, on the one hand, he said,

he was at all times ready and willing to support the Constitutional rights and privileges of the House, and was willing, with that view, to go on with the inquiry, he was, on the other hand, bound to protect the citizen from the arbitrary exercise of discretion on the part of the House. Wherever there was guilt, he hoped there would be no shrinking from investigation. When it was proposed to bring to the bar that individual now accused, whom he had known as a hardy warrior in his country's service, with the frosts of many winters on his head (not that he would say anything to justify the late conduct of that individual,) Mr. J. said, he had not shrunk from the authority of the House. Mr. J. was opposed to this resolution if it was intended to examine the accused before a committee; he was opposed to any course of proceeding but bringing the individual before the House: he wished to see his face; he wished to hear the testimony of those who had known him from his infancy, as to his general character. On this occasion, Mr. J. said, he felt himself to stand in the character of a judge: to examine and punish the accused according to his guilt, but on the other hand to protect his rights whilst arraigned before this House without law to protect him. It was due to the House and to the individual, that he should be brought before them, that circumstances of aggravation or mitigation should be adduced; and if he was found guilty, with corrupt intention, of offering a bribe to a member of this House—whose character, said Mr. J., stands on a basis needing no encomium from me—if the man should have been so far depraved as to commit this outrage, under no circumstances of mitigation, Mr. J. said he would go, as far as the Constitution would justify him, to punish him. This was no longer a personal question; the member who had so honorably brought forward this charge was no longer an insulted individual, any more than he (Mr. J.) It was the House that was insulted; it was for it to punish the offender, if it had the power.

Mr. FORSYTH, of Georgia, said he did not suppose it possible for any gentleman to misunderstand the object of the motion before the House; which was, not to examine John Anderson, but to inquire what further steps it would be proper to pursue in the case.

Mr. JOHNSON said he had no sort of objection to the resolution.

Mr. BALL rose to say, in reply to the suggestion of the gentleman from New York, that he had not referred to the clause of the Constitution which he had quoted, without having first determined, in his own mind, the true construction of it. The gentleman said that the provision in question referred only to judicial proceedings. Is not this, Mr. B. asked, a judicial proceeding? Will any gentleman contend we can legislate a man into prison? If we are to punish him, it is from a judicial power inherent in this body. If, in punishing him, we act in a judicial capacity, (which will not be denied,) an oath is necessary to justify a warrant for his apprehension.



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Mr. TERRY said that, on this occasion, it appeared to him, to use a vulgar adage, gentlemen leapt before they came to the stile. With respect to the Constitutional provision for the protection of individuals, if a warrant contrary to law was before a court of justice, where strict law prevails, the court would not *ex officio* quash it, if the party concerned submitted to it. It was proper, Mr. T. said, that Colonel Anderson should have the opportunity of objecting to it. If he did so, Mr. T. reserved to himself the right to decide whether the warrant had been issued constitutionally or not. In the present state of the proceedings, he said, the House ought not to decide: if conscious of his offence, the individual might not think it advisable to object to the authority of the House.

Mr. BEECHER, of Ohio, again addressed the Chair. A man, he said, is either free, or he is not. If free, he was entitled to exemption from every species of arrest not authorized by law. I contend, said Mr. B., that it is our duty, if we find we have proceeded wrongly, to correct the procedure as soon as possible. Where will this end? When will you put a stop to it? He denied the discretionary power of the House to punish at pleasure, according to the doctrine of the gentlemen from Pennsylvania. It was time to examine rigorously what was the power of this House in that respect: for, he believed, according to the Constitution of the country, no man could be punished on the supposition that he had committed a crime, but on the ground that he had infringed some law. The Constitution provides that no *ex post facto* law shall be passed; that no citizen shall be deprived of life, liberty or property without due process of law; and that no person shall be held to answer for a capital or otherwise infamous crime without presentment or indictment by a grand jury. Is this man, or is he not, said Mr. B., deprived of his liberty without due process of law? Is he accused of a crime? If so, where is the law defining it? Or, have we the privilege of making anything criminal which we may choose to call a crime. How will you punish the person whom you decide to be guilty of a crime your own will has constituted? By imprisonment at discretion? That, said Mr. B., is a power I do not wish to possess. Again, he said, the Constitution required that the trial of all criminal prosecutions should be by jury. Was this a trial by jury? If this man has trespassed on his neighbor's rights, Mr. B. said, the courts are open for redress. The individual now in custody is accused of an offence for which there is no punishment; but, it is contended, that in the exercise of our discretion, we may inflict it to any extent we think fit. It was a doctrine maintained by the courts of our country, that no man should be punished for an act which he did not know was a crime when he was committing it. But, it was contended, that there was a power inherent in this body to take such measures as will protect its own integrity. Our integrity, Mr. B. said, is to be protected by other means than those which may be adopted by this

House to prevent individuals from assailing it. How far, he asked, does the jurisdiction of this House extend, on the principles for which gentlemen contend? All over the United States? Or is it circumscribed, and by what limits? A bribe might be offered to a member before he came here; if the member discloses it after his arrival, have we a right to send for the offender? Mr. B. said he could not accede to this doctrine.

But it was said that this resolution provided a way in which a thorough investigation of the subject might be had; and therefore it ought not to be objected to. Mr. B. objected to it, because, he said, it was the duty of every man, here and elsewhere, to protect the rights of the citizen, of the invasion of which there was more danger than that the rights of this House would be trampled under foot, and the nation thereby sustain injury. If, said he, we are to be organized as the grand inquest of the nation, invested with discretionary power, we are possessed of a power dangerous in the extreme. Let us not now, said he, establish a principle and doctrine that in time may be productive of everything iniquitous and injurious. To what extent might not this doctrine lead? If for what is said or done out of doors, citizens may be required to answer at our bar, every man in the nation is liable to be arraigned at our will and pleasure, although in conscientiously opposing and reprobating our measures he has exercised no more than his Constitutional right, &c.

If solitary precedents might be found on the Journals of the exercise of such a power by the House, it was time now to put a stop to it. It was time now to stop, and inquire whether the House is possessed of power to enable it to bring before it at pleasure whomsoever it chooses to arraign for a supposed breach of supposed privileges. That, Mr. B. said, was the question he wished to have put, and which he wished the House seriously to decide. ✓

Mr. COMSTOCK, of New York, said he did not rise to detain the House, but to say that he thought, unless this or a similar resolution passed, (for appointing a committee) the patience of the House would be put to a severer test than it had yet been, by the protraction of a debate arising from the want of a definite proposition before the House, which it would be the business of a committee to present. Many observations, it appeared to Mr. C., had escaped gentlemen in the course of the debate that had already taken place, which might have been offered with more propriety when this man should be brought before the House, and exhibit the evidence, if he has any, to extenuate his guilt. It would then be more proper that it was now to comment on his character and on all the circumstances of the transaction. At present, Mr. C. said, he would forbear any remarks on that head; he thought that enough had been disclosed to justify what had been already done.

The resolution was finally agreed to, and Messrs. FORSYTH, HOPKINSON, TUCKER, SER-

GEANT, JOHNSON, of Kentucky, PITKIN, and TAYLOR, were appointed a committee accordingly.

The House then proceeded to other business, though the case of Colonel Anderson was subsequently resumed, as will be seen.

The engrossed bill, making a further appropriation (of \$200,000) for repairing the public buildings, was read a third time, and passed.

#### JUDICIAL RECORDS, &c.

The House then spent some time in Committee of the Whole, on the bill to prescribe the effect of certain records and judicial proceedings.

The question being still on striking out the second section of the bill, which was opposed by Mr. H. NELSON and advocated by Mr. BARBOUR:

Mr. SPENCER had risen to defend the section, when information having been given that the committee on the case of Colonel John Anderson were ready to report,

The Committee of the Whole rose, reported progress, and obtained leave to sit again.

#### COLONEL ANDERSON'S CASE.

Mr. FORSYTH, from the committee appointed to-day, made a report recommending that the House do come to the following resolution:

*Resolved*, That John Anderson be brought to the bar of the House, and interrogated by the Speaker, on written interrogatories, touching the charge of writing and delivering a letter to a member of the House, offering him a bribe, which, with his answers thereto, shall be entered on the minutes of the House. And that every question proposed by a member be reduced to writing, and a motion made that the same be put by the Speaker, and the question and answer shall be entered on the minutes of the House. That, after such interrogatories are answered, if the House deem it necessary to make further inquiry on the subject, the same be conducted by a committee to be appointed for that purpose.

Mr. BEECHER made a motion to refer the report to a Committee of the Whole House.—Negatived.

Mr. BEECHER declared this resolution to propose, in his opinion, a novel procedure. The man was to be brought to the bar to be interrogated; for what? To criminate himself? If he speaks the truth, he must criminate himself. Was this House, Mr. B. asked, to be converted into an inquisitorial court? For such proceedings were proposed, adverse to the right of the accused, as were in other courts sedulously avoided, and as were contrary to the principle of the Constitution, that no person shall be compelled, in any criminal case, to be witness against himself. Mr. B. protested against this proceeding, which, he said, ought not to be adopted.

The report was agreed to without a division.

Mr. BEECHER moved that counsel be allowed to the accused.

Mr. SERGEANT suggested that it would be time enough to do that when the prisoner asked for it.

Mr. BEECHER said it was the right of this individual, placed in so novel a situation, to have his privilege pointed out to him, which otherwise he might not know.

Mr. TUCKER read a resolution that the Speaker be authorized to inform the accused that he might ask counsel, &c.

Which was superseded by an intimation from the Speaker, that he should consider it a duty, if no objection was made, to give the accused information on this head.

The Sergeant-at-Arms was then directed to bring his prisoner to the bar of the House.

On his appearance, the SPEAKER directed a chair to be given to him, and addressed him to this effect:

"John Anderson, you are no doubt aware that you are brought before this House in consequence of having written and delivered to a gentleman, who is a member and chairman of a committee of this House, a letter, of the contents of which you are apprized. Before I proceed to propound to you any interrogatories on this subject, I will apprise you that, if you have any request to make of the House; if you wish for counsel, for reasonable time, for witnesses, for any of those privileges belonging to persons in similar situations, the House is disposed to grant it. If you do not wish for time, for counsel, or for witnesses, the Speaker will proceed to put to you such interrogatories as may seem proper."

To this the prisoner at the bar replied, in substance, although indistinctly, that, in his peculiar situation, he desired the assistance of counsel; he desired time until to-morrow, and the opportunity of summoning witnesses to testify to the character he had sustained through life.

Whereupon the Sergeant-at-Arms was directed to take the prisoner from the bar.

Some conversation took place as to the precise mode of proceeding, which resulted in drawing up a resolution that the Speaker be authorized to inform the accused that the House comply with his requests.

Mr. HERRICK moved to amend the motion, so as that the accused be furnished previously with a copy of the written interrogatories to be put to him.

To this Mr. FORSYTH objected, because it would be inconsistent with the object of this examination. The object was to ascertain whether the accused admitted or denied the offence imputed to him. If he denied it, it would be for the House to substantiate it; if he admitted it, it was for the House to proportion its decision thereon to the magnitude of the offence.

Mr. HERRICK withdrew his first motion, and moved that the accused be furnished with a copy of the letter which was the ground of this proceeding; to which was added, on suggestion of Mr. RICH, a copy of the statement of Mr. WILLIAMS accompanying the letter.

Thus amended, the resolution according these privileges to the accused, was agreed to.

The prisoner having been remanded to the bar of the House, the SPEAKER addressed him nearly as follows:

"John Anderson, I am directed to inform you that, pursuant to your request, you are at liberty to engage such counsel as you may think fit; that the Clerk of the House will furnish you with such subpoenas for

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witnesses as you may think proper, and that you will also be furnished with a copy of the letter on which the proceedings are founded, and of the statement of an honorable member of this House which accompanied it. I am further directed to inform you that to-morrow at one o'clock is the time assigned for further proceedings in this case."

And then the Sergeant-at-Arms withdrew from the bar with his prisoner.

The House adjourned at a late hour.

FRIDAY, January 9.

Another member, to wit: from Rhode Island, JAMES B. MASON, appeared, produced his credentials, was qualified, and took his seat.

Mr. JOHNSON, of Kentucky, from the committee of investigation on so much of the public accounts and expenditures as relate to the War Department, made a report respecting a certain contract entered into with the Government by Col. Elias Earle, on the 3d of February 1815, while a member of the House of Representatives, explaining the nature of the transaction, and exonerating Colonel E. from any blame under the circumstances of the case; which report, together with one of the last session on the same subject, was ordered to be printed.

Mr. ROBERTSON, of Louisiana, from the Committee on the Public Lands, to whom was committed the amendments proposed by the Senate to the bill, entitled "An act for the relief of Samuel Aikman," reported the agreement of the committee to the same; which were concurred in by the House.

Mr. ROBERTSON also reported the agreement of the committee, to the amendments proposed by the Senate to the bill, entitled "An act for the relief of Joel Earwood," with an amendment; which was read and concurred in by the House.

A message from the Senate informed the House that the Senate have passed the resolution from this House, "directing the procurement of certain laws," with an amendment, in which they ask the concurrence of this House.

#### ORGANIZATION OF THE MILITIA.

Mr. HARRISON from the Committee appointed on that part of the President's Message which relates to the militia, made a report; which was read; when Mr. H. reported a bill to provide for organizing, arming, and disciplining the militia; for calling them into the service of the United States; for governing them therein; and for compensating them for their services; which was read twice and committed to a Committee of the Whole. The report is as follows:

The committee to whom was referred so much of the Message of the President as relates to the militia have had that subject under consideration, and beg leave to report, that the Constitution grants to Congress the following powers in relation to the militia, to wit: To provide for organizing the militia; for arming them; for disciplining them; for calling them into the service of the United States; for governing them therein; and for compensating them for their services; which powers the committee have considered separately.

1. The committee are of opinion, that, in organizing the militia, it would be a great improvement to divide them into two classes, with a view to train diligently, and to provide to arm immediately, the young men, and exempt the elderly men from the sacrifice of time which effective training would require—the organization of the militia might remain in all other respects nearly as heretofore established.

2. The Constitution having made it the duty of Congress to provide for arming the militia, this power is not duly exercised by merely enacting that the militia shall arm themselves. A law to that effect, unsanctioned by penalties, will be disregarded, and, if thus sanctioned, will be unjust, for it will operate as a capitation tax, which the opulent and the needy will pay equally, and which will not be borne by the States in the proportion fixed by the Constitution. The committee do not approve of putting public arms into the hands of the militia when not necessary. That mode would expose the arms to be lost and destroyed. They conceive that Congress should provide arsenals, from which the militia of every part of the United States could draw arms when necessary, which would be a sufficient exercise of the power to provide for arming the militia.

3. Congress having power to provide for governing the militia only when they are in the service of the United States, and the authority of training them belonging to the State governments, the committee have not deemed it proper that Congress should prescribe the time to be devoted to training, or the manner in which that object will be best effected. It is the duty of the State Legislatures to enact the necessary laws for that purpose. The committee deem it a sufficient exercise of the power to provide for disciplining the militia, to direct the appointment of the necessary officers, to prescribe their duties, and to provide a system of discipline, comprehending the camp duties instruction, field exercise, and field service of the militia.

4. The committee are of opinion, that the regulations for calling forth the militia may remain substantially as at present existing. That the President should, in all cases, address his orders immediately to some officer of the militia, and not to the Executive of any State. The Governor of a State is not a militia officer, bound to execute the orders of the President; he cannot be tried for disobedience of orders, and punished by the sentence of a court martial.

5. In providing for governing the militia in the service of the United States, it has appeared to your committee that the senior class might be exempted from being marched out of the State to which they may belong; that the junior class, composed of ardent and vigorous men, the efficient force of the nation, should, when called into service, continue therein some time after having acquired the knowledge and habits of soldiers; that the officers should, by their own consent, be continued still longer in service, as military knowledge, principles, and habits, are most essential to the officers, who are the soul of an army. It has also appeared to your committee, that those principles would be best acquired by the officers of the militia, in serving with officers of the regular troops on courts martial, for the trial of offenders either of the regular troops or militia.

6. The compensation to the militia for their services, consisting of pay and allowance for clothing, and of pensions in case of disability by wounds re-

ceived in the service, the committee would allow to remain nearly as heretofore fixed by law.

The committee, acting according to the foregoing principles, report a bill to provide for organizing, arming, and disciplining the militia; for calling them into the service of the United States; for governing them therein; and for compensating them for their services.

#### AMENDMENT TO THE CONSTITUTION.

Mr. HARRISON submitted the following proposition of amendment to the Constitution of the United States; which was read and committed to the Committee of the Whole, to which is committed the bill this day reported, for organizing, arming, and disciplining the militia, &c.

*Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring therein, That the following amendment to the Constitution of the United States, be proposed to the Legislatures of the several States; which, when ratified by the Legislatures of three-fourths of said States, shall be valid to all intents and purposes as a part of the said Constitution:*

Congress shall, concurrently with the States, have power to provide for training the militia, according to the discipline prescribed for that purpose, and whilst engaged in that service, they shall be subject to the rules and regulations prescribed for the government of the militia, when in the military service of the United States; and also, to provide for teaching, in the primary schools and other seminaries of learning in the several States, the system of discipline prescribed for the militia.

[In offering his resolution, Mr. HARRISON remarked, that it would be recollected he presumed, that a similar proposition had been laid on the table by him at the last session. In doing so then it was not with an expectation that anything would be done on the subject at that time, but it was to draw the public attention to the subject, and prepare the way for a decision at the present session. The bill which had been reported on the subject embraced all the provisions within the power of Congress respecting it which the committee had thought necessary; but as the Constitution had expressly reserved to the States the right of training and disciplining the militia, the adoption of the resolution might be deemed necessary; and he wished therefore that it might be committed to the same committee to whom the bill had been referred, that the whole subject might thus be presented to it for deliberation, &c.]

#### CASE OF COLONEL ANDERSON.

Mr. SPENCER offered for consideration the following preamble and resolutions:

The House of Representatives, entertaining great doubts of its possessing the competent power to punish John Anderson for his contempt of the House, and his outrage upon one of its members:

*Resolved, That all further proceedings in this House against the said John Anderson, do cease, and that he be discharged from the custody of the Sergeant-at-Arms.*

*Resolved, That the Attorney General of the United States be directed to institute such proceedings against the said John Anderson for his said offence as may be*

agreeable to the laws of the United States and of the District of Columbia.

*Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law for the punishment of any contempt of the Senate or House of Representatives of the United States, and of any breach of the privileges of either House.*

Mr. SPENCER, of New York, observed, that in submitting the resolutions which had been read, his object was to procure a decision of the House on the abstract question of its right to proceed in the case of Colonel Anderson. He had offered them in this stage of the proceedings, because no opportunity had yet been given to take the sense of the House, and with a view also of preventing the influence of those feelings, which the demerits of the case might excite, in producing a decision that calm and deliberate reason might not sanction. It was more consistent, also, with the dignity of the House, that we should retrace its proceedings, if they were wrong, from our own impulse, rather than be compelled to do so on the motion of the accused or his counsel.

Mr. S. unequivocally condemned the conduct of the accused; and his indignation at the enormity of the offence had, he confessed, carried him too far in endeavoring to punish it. The only apology I have to offer, said Mr. S. is to be found in that universal burst of feeling which spread through the House on the disclosure of the base transaction. But time for reflection has succeeded to the impetuosity of feeling; and, being perfectly convinced that we were wrong, I take the first opportunity to acknowledge my error, and to expiate it, by submitting the resolutions on your table.

In deciding this question, we act as judges, and we must demand the very letter of the law to authorize our decision. With the propriety, or expediency, or necessity of having some law on the subject, we, as judges, have nothing to do. We act not as legislators, but in a judicial capacity, in a cause between us and the accused; and we are as strictly bound by the law of the land as any court of justice can be. Let us, then, search for that law. If it is to be found at all, it is either in the Constitution, in the laws of the United States, or in the law of Parliament. The friends of the procedure have been in vain called upon to point out the express power given by the Constitution. So far from doing so, they have not, as yet, answered the objections which the Constitution itself interposes. The 4th article of the amendments provides, "that no warrant shall issue but upon probable cause, supported by oath or affirmation," and that it shall describe the person to be seized. In the present case, a warrant has been issued, directing a person to be seized, without being supported by oath or affirmation. But we have been told, that the clause is only intended to regulate courts of justice. There is no such limitation in the amendment; but, admit it, and what is gained? The issuing of process to bring in a party to answer is in itself a judicial act; all our proceedings in the case

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are founded upon the idea of our being a court for this purpose. By the 5th amendment it is provided that no person shall be held to answer for an infamous crime unless on indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in service. If any doubt should exist as to the universality of the prohibition, the excepted cases which it mentions shows conclusively that it was intended to apply to all others. Here there is no presentment, and no one will contend that it is one of the excepted cases. The same amendment provides that no person shall be compelled to be a witness against himself in a criminal case. We are about to propound interrogatories to this man; if he refuse to answer them, what are you next to do? Will you treat the refusal as another contempt, and punish him for it; and thus compel him to bear witness against himself? Or will you persist in making a vain effort at power, when you know you must retire discomfited and disgraced? The 6th amendment provides for the trial by jury. In no sense of the word can this House be deemed a jury; we are not returned by an Executive officer; we possess not the qualifications of jurors, and the right of challenge of course could not be allowed.

From this examination, it results, then, that if we proceed against this man for a crime, as some have contended, our measures are wholly unconstitutional, illegal, and void. If we proceed against him at all, it must be for a contempt amounting to a breach of the privileges of the House. The most diligent research has not enabled me to discover either the word or the idea of a contempt as applied to Congress, in either the Constitution or laws of the United States, and I venture to affirm that neither of them is to be found there.

But it is said the House, from necessity, must have the power of punishing contempts, and that without it we should be unable to legislate. I deny, as broadly and as generally as the assertion is made, the existence of any such necessity. It is sufficient for your purposes, to exercise the natural right which every citizen possesses, in his self-defence, of removing any interruptions in the discharge of your duties. It is strictly on the right of self-defence, and while it will authorize you to remove any cause of interruption in your business, and to prevent the offender from entering your galleries, it will not justify you in going a single step further. The necessity does not require that you should punish the offender; it does not require that you should pursue him beyond your own mansion. Your deliberations are unaffected by his punishment. And I cannot conceive how it can be deemed necessary to our employments here to take any notice whatever of an offence which does not interrupt our debates nor retard our business. Is it contended that the power to punish for contempts is inherent in the House? If there be any meaning in the term, it must be that without the power you cannot act as legislators; that is, that it is essential. There can be no other inherent rights than those which are absolutely necessary. And, then, it results

in the same question of necessity which has been already discussed.

A gentleman from Virginia yesterday alluded to that part of the Constitution giving to Congress the powers necessary to carry into execution those which were specially granted. I cannot for a moment imagine that that gentleman intended to quote that clause as giving to this House executive and judicial powers. But to prevent misapprehension, permit me to quote it; it is this: "that Congress may make all laws which shall be necessary and proper for carrying into execution the foregoing powers." Not that this House may exercise these powers, but that this Congress, composed of the three branches of the Government, may make laws to execute the incidental powers. It does not even authorize this House to make the law, much less to usurp the judicial authority in deciding on it, or the executive in enforcing it. Between us and those powers the Constitution has erected an insurmountable barrier. In this case, there being no law, we, as a co-ordinate branch of the Legislature, have no right to make it. If then it be true, that it is both necessary and proper, for carrying into execution the powers vested in Congress, that contempts of either House not amounting to an actual interruption of business, shall be punished, here is your authority for passing a law to define the crime and to prescribe the punishment. And I do, in the utmost extent, admit that Congress have the incidental power of passing all laws necessary and proper to attain the objects contemplated by the Constitution. Indeed, it is a principle as dear to me as any other in our Government; a principle so strengthened, confirmed, and rooted in my mind, that intellect and understanding must go with it when I yield. But until a law is passed, there can be no crime, for crime consists in the violation of a law; and there can be no punishment, for that is the judgment of law, not of a court, upon the crime. The argument reported by Mr. Jefferson to have been used in the Senate of the United States, in the case of the editor of the Aurora, is so applicable to this part of the subject, that I must beg the indulgence of the House for quoting it: "In requiring a previous law, the Constitution had regard to the inviolability of the citizen as well as of the member; as should one House, in the regular form of a bill, aim at too broad privileges, it may be checked by the other, and both by the President. And also, as the law being promulgated, the citizen will know how to avoid offence. But if one branch may assume its own privileges without control, if it may do it on the spur of the occasion, conceal the law in its own breast, and, after the fact committed, make its sentence both the law and judgment on that fact; if the offence is to be kept undefined, and to be declared only *ex re nata*, [as the case arises] and according to the passions of the moment, and there be limitation either in the manner or the measure of the punishment, the condition of the citizen will be perilous indeed!" Perilous, sir! it will be the condition a slave, dependent

upon the arbitrary will of another. And is not the very proposition to exercise such a tremendous power, and under such circumstances, enough to appal us? Here are we assembled as accusers, witnesses, jurors, and judges; the offended party, acting in all these capacities, and burning with indignation at a flagrant outrage; and we are called upon to make the law, to decide upon it, and to punish in our own case!—to decide what? whether an offence has been committed against an unknown law;—to punish how? according to the dictates of our own feelings! As one, sir, I dare not trust myself with such powers; and sure I am that no body of men under Heaven shall ever, with my consent, exercise them against me. Your power over your own members is defined; I know its extent; but the authority now claimed has no other limits than those of passion, and no other restraints than those of pride.

An argument is attempted to be drawn from the fact, that the courts and Legislatures of the different States, and of England, exercise the power claimed. With regard to the law of Parliament, in England, it is a peculiar branch of the common law, declared by the two Houses from time to time. That law is not recognised in the United States Government or its courts, except so far as it has been expressly adopted. Repeated decisions of the courts have put that question at rest. I utterly disclaim and deny, therefore, the authority of the law of Parliament as applicable to Congress. We reject some of the forms of that body, and adopt others; but I trust we have not admitted, and never will admit into our institutions, the despotic principles which have too often disgraced its proceedings, especially in cases of privilege.

With respect to the different States, the common law, with special exceptions, has been either expressly or impliedly adopted, or its principles have been enacted in statutes, and that law has conferred upon the State courts and Legislatures the power of punishing for contempts. The practice of the States, therefore, furnishes no example for us. The authority claimed is not given by our Constitution or laws; and it cannot be derived from the common law, because we do not recognise the law itself. Besides, the State Legislatures possess other and very different powers from those belonging to Congress. Our authority is limited by certain fixed and definite land-marks; their powers are plenary and ample; they possess all that are not delegated to us. We are a branch of a limited Government for certain precise and special purposes; they are Governments for all other purposes, without any limitation of power other than that prescribed by their own constitutions. The cases, therefore, are not analogous, and from their practice we can derive no sanction.

The authority of the courts of the States to punish for contempts, is upon the same foundation. They have acquired it by the adoption of the common law, or by express statutes. The courts of the United States maintain the same power by virtue of a law of Congress. The first

Congress which assembled under the Constitution, composed of the framers of that instrument, have given their construction of it in the law which they passed in September, 1789; by which authority is given to all the courts of the United States "to punish, by fine or imprisonment, all contempts of authority in any cause or hearing before the same." If all courts possess the inherent power contended for, then did that venerable body, to whose labors we so frequently appeal, commit the solecism of granting that which was already possessed. Far from it, sir. They knew that they were originating an entirely new system, and they intended that it should emanate from their hands complete, and as perfect as they could make it. It was an experiment—it was entirely new; nothing like it had existed—it began above. Intending to limit it, it became as necessary to give sufficient powers for the execution of the contemplated purposes, as it was to prohibit the assumption of those which were not granted. Such was the course pursued, and our Government, like our courts, possesses no powers but those contained in the compact which spoke it into existence.

I have done, sir, with the plea of necessity—the tyrant's plea, which is always used when there is no other to justify harsh and rigorous measures, or exorbitant powers. The next argument which I have to meet is that of precedent; the eternal refuge and expedient of a cause that shrinks from inspection, and would hide itself in the obscurity of example. But, fortunately for our country, the examples of the exercise of this power are so few, that there is little danger that the case of Anderson will be mingled with the common rubbish of precedent. It will be regarded, because it occurred in a season of profound political tranquillity, when there were no party passions to stimulate our animosities or influence our decisions; and yet this very case, occurring at such a period, ought to induce us to distrust the precedent of all others. When an atrocious insult was offered to one of the most respectable members of this House, a gentleman who bears the very impress of integrity, and whom none but the most weak or the most profligate could think of approaching improperly, after viewing those lines which the Almighty has written on his countenance; when such an insult was offered to such a man, and that man our fellow-member; when such an indignity was offered to this House, who could stop to inquire whether the first weapon he seized to smite the offender, was or was not strictly lawful? I confess that as one I took the weapon offered in the warrant for apprehending Anderson, without thinking of the consequences of its use, and without caring for them. For this rashness I have atoned as far as I was able; and it has taught me a lesson which I am now improving—to distrust those precedents which I fear have been established under the operation of similar feelings.

But, sir, I have a general objection to precedents in legislation, not to forms; they are essential to the despatch of business and to accuracy.



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But I do object to any two or three cases furnishing a rule for decision. For what purpose is a new Congress assembled every two years, if it is to be bound by the determination of its predecessors? From the very nature of legislation there can be no precedent. Each Congress is supreme, and each law must be passed upon its own merits. You may, indeed, refer to the proceedings of a former Congress, as expressing the opinions of gentlemen entitled to great weight, but surely you are not bound by them. Hence arises the difference between the effect of precedents in a court of justice and in a Legislature. In the former some fixed rule is necessary, that suitors may know their rights; in the latter, when it is not a question of right, each case furnishes its own rule.

In the particular case of contempts, there is the same objection to our being bound by precedents; and that is derived from the circumstance that, there having been no law defining the crime, and prescribing its punishment, each case must, in common charity, be supposed to have been determined upon its own merits. Had there been a law the crime would have been known, and the precise turpitude of the offence would have been determined by that standard; so that a precedent might then have been some evidence of the extent and application of the previous law. But as there was no law, we are compelled to infer that one was made to reach the case, and made, of course, only for that case. So that, in the language of Mr. Jefferson, (speaking of precedents in cases of contempts,) "the judgment on any particular case is the law of that case only, and dies with it. When a new, and even a similar case arises, the judgment which is to make, and at the same time apply the law, is open to question, and consideration, as are all new laws."

But if you adopt these precedents, how far will you go with them? Is this House prepared to go the full length of the tether which has been stretched by the English Parliaments? The cases which have occurred in this country are confessedly founded on them. How much further will you follow them through the scenes of violence and passion which produced them? The English Parliament has decided that the privilege of a member arises by force of the election, and that he possesses it even before a return be made. Some of the members on this floor were elected nearly two years since. Have we been all this time clothed with the mantle of privilege? It has been decided also by that Parliament, that any assault upon the person, or any attack upon the reputation of a member, although in a matter not connected with his official duties, is a breach of privilege. Is this House prepared to punish all the aspersions upon the private characters of its members which have been made within two years? Will you send your Sergeant-at-Arms to the District of Maine for any editor of a newspaper who may have traduced any member of this House? Should you exercise your power to that extent, I need not ask how much time this House would have left to discharge its ordinary

legislative duties. You must either take the whole power furnished by these precedents, or you must reject the whole; for there is no dividing line between any of them. Permit me to pursue this doctrine still further. It has been decided in England, that any interposition of the King to affect any measure before either House of Parliament, was a breach of privilege. Luckily for that Parliament, there was a prerogative that met the privilege; as the King could do no wrong, he could not be punished; and for that reason, I presume, among others more important, the attempt to punish was not made. But, sir, the decision remains among the precious bundle of precedents, ready to be produced when occasion may require. Suppose, then, what cannot with propriety be supposed, except for the purpose of illustration, that the President should think proper to interpose on a subject before Congress, and should tell us that it was not worth our pains to legislate upon any particular measure, because he had determined to put his veto on it; should we venture to send our Sergeant-at-Arms for the President, and bring him to our bar? No man in his senses could think of it. Where, then, will you stop? If you once acknowledge the principle that the common law established by the precedents of the English Parliament is our law, where, at what point will you arrest your career in the course of privilege and prerogative? If we borrow from England the doctrine of privilege, why may not any future Executive loan for a short time that of prerogative? One step more; create a star-chamber judiciary to sanction and enforce your claims, and we shall have reached the goal of our course. The whole doctrine is uncongenial with our institutions; it has no root here; it cannot flourish, even if it were watered by the tears of any who may cast a longing, lingering look behind, at the charms of aristocracy, and the comforts of despotism.

In the proceedings against this man, we have arrived at the brink of an abyss, where it much behoves us to pause and reflect; a single step may cast us into it, without our having sounded its depth or measured its extent. Let us hesitate before we spring into it; and if we be determined to plunge, let us at least explore the ground, and know where we are to land.

I cannot apologize, I disdain to make an apology for having brought this subject to the consideration of the House. Its infinite importance will vindicate me. If the House should be determined to proceed in the exercise of the power claimed in this instance, I shall at least have the consolation of reflecting that I have discharged my duty in protesting against that power, as a violation of the charter of our liberties, and as jeopardizing, in an imminent degree, the personal liberty of the citizen.

Mr. ANDERSON, of Kentucky, declared that he should support the resolutions offered to the House. His only objection was to the expression of doubt contained in the preamble; he felt no doubt, and thought the prisoner should be instantly discharged. It might indeed produce some mor-

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tification, for the House now to retrace its steps, and to make a public acknowledgment of its imbecility, but he thought this course much preferable to an assumption of the Constitutional powers now contended for. He himself participated in the mortification, but felt the necessity of giving the most prompt correction to the error which had been committed in issuing the warrant. It was much better now to arrest the proceedings, than to conduct the case through an examination, and be compelled to adopt that course; an idea then might justifiably arise that the discharge was produced by a belief that the man was innocent, or that the case did not merit punishment. It should be placed on its true ground; the prisoner should be immediately discharged, from a want of power in this House to punish. If this power be possessed, it is indeed most novel and extraordinary. In every other case, an act, which is punishable, must, by a previous law, have been declared an offence. In this, the guilt of the individual does not rest on any statute previously passed and promulgated, but on the feelings and passions of this House. In vain do we demand the law, which has declared the act an offence at the time of its commission. In vain may the citizen look for the rule of his conduct in the statute book of his country. There is no law declaring the act, we are about to punish, a contempt or an offence of any kind; our opinion of its criminality has been locked within our own breasts, and never can be constitutionally declared except by a law of Congress. No other tribunal has ever yet dared to assume such a power, and if it be exercised, no citizen in this country can be safe. But if the doctrine is recognised that we can declare an act after it is committed an offence, according to our views of the privileges of the House, or the nature of contempts, we are at once plunged in a sea of perplexity. There is no subject on which the varying minds of men can differ more. That act which one will declare the grossest contempt, will, by another, be thought perfectly harmless. We shall have no previous standard by which we can measure the act; the fact of its being an offence will depend on the wide and differing views of members of this House. If we reserve to ourselves the power of declaring every paragraph in the newspapers defamatory or libellous, as our feelings may direct, and which no law has forbidden, we are indeed possessed of powers, of which the people of this country have little thought, and which, by reading the Constitution, they can never find.

If, however, it should be conceded that this was an offence, unless there has been a punishment previously affixed by law, we are still powerless and must arrest these proceedings. By what authority can we award any punishment, or imprisonment, in preference to any other? There is none in the Constitution, and there is no law on the subject. What necessary connexion is there between contempt and imprisonment? They seem to be spoken of as if one was a necessary consequence of the other. It arises, Mr. Speaker, from the provisions of the common law, and the

usages of the British Parliament, which are fastened about our recollections, and are difficult to be shaken off. We forget that the powers of the House of Commons depend on precedents formed by their own decisions, and ours only on special grants in the Constitution. This House alone cannot create a punishment which has not been affixed by law; by both branches of the Legislature. An apt illustration of the idea is found in the provisions of the Constitution, which define treason, and empower Congress to prescribe the punishment. If this power had never been exercised, and no statute had been enacted to declare the punishment, no court in this country could have created one. No judge would have dared to pass a sentence of death or imprisonment for a day. The vilest traitor that ever lived, can be punished only according to law in this land. The same observations apply to piracy, and felonies, committed on the high seas. Until Congress shall exercise the powers given by the Constitution, and define the crimes and declare the punishment, no tribunal in this country can supply the defect, and dare to punish according to the common law, or in any other way. If we can impose a penalty, which has not been assigned to a specific crime, there is then no boundary to our powers. When we determine that this House possess the power of punishment, then the species or degree is only matter of selection. Who can prescribe the limit? We have no standard to regulate or bind our power, but our own feeling. We can range through every gradation of punishment, from a simple reprimand to death. And when the principle of punishment is decided, we may to-morrow be boldly debating whether we shall reprimand, imprison, brand, or gibbet this man. If this resolution be rejected, we shall, in effect, decide that the House of Representatives possess the power not only of declaring any act an offence, but of selecting and inflicting a punishment heretofore unknown to the laws, and even to ourselves. These are indeed tremendous powers, and such as I believe have never been granted.

The gentleman from Georgia (Mr. Forsyth) asked, yesterday, what would be the course of this House, if a person in the galleries should insult a member by hissing, or throwing nuts at his head? The question has been answered by the gentleman who last addressed you. But those who support the power of the House, must remember that they do not extricate themselves from the difficulty of propounding perplexing questions. They hold the affirmative of the proposition, and cannot expect us to follow them, unless they show the way clearly and distinctly. The answer, however, which he would give, and which would release the House from all embarrassment, would be to pass a law accurately defining every offence, and assigning a punishment to each. On the subject of our power to give such a law operation within the District of Columbia, there can be no doubt. The power of "exclusive legislation in all cases whatsoever," was given to enable Congress to place at a distance everything which could overawe its pro-

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ceedings, or in any way obstruct its impartial deliberations. Any law may be passed which is necessary to insure to a member of the House perfect exemption from insult, and to enable him in every way impartially and fearlessly to discharge his duties. Within the "ten miles square" there was no difficulty; for the pettiest offender within the District could be punished only by authority of an act of Congress, either specially embracing the case, or adopting the laws of Virginia or Maryland on the subject. It is possible that a doubt might be created as to contempts, or other offences against the privileges of the House, committed beyond this exclusive jurisdiction; and we must then resort to the authority "to make all laws which shall be necessary and proper for carrying into execution" the powers of Congress. But in no event could much practical inconvenience result, as it could very rarely happen that any contempt, shown beyond the District, could seriously obstruct the transaction of the public business.

It has been urged that the State Legislatures and courts of justice punish contempts, and it is demanded, if Congress shall not exercise this power. No legislature or court can exercise it without law. In all the States they are authorized either by statutes specially, or by the common law, recognised by the statutes or the State constitutions. Congress can by law prescribe a punishment, and the mode of awarding it. Until this is done, one House cannot make the offence, and then punish it. He thought the warrant should be set aside. Still he could cast censure on no one, as no member of the House had voted for the warrant more promptly than he did. If the prisoner had then been present, it was probable he would not have postponed the punishment, even to read the Constitution.

Mr. FORSYTH, of Georgia, said, he would not follow the gentlemen through the long course of their arguments. He relied on their own admissions, as abundantly sufficient to justify the proceedings which had been and which were proposed to be adopted.

It is admitted that we have power to suppress disorder in the gallery, to remove the offender from the hall. Is not this removal of a citizen of the United States, of a freeman, from your gallery, in which, while it continues open, he has as much right to sit there as we have to sit here, a punishment for a crime or contempt which he has committed? Is it not, if not justified by law, an assault, and false imprisonment, for which the officer acting under your orders is answerable, by suit and by indictment? Whence arises the power? Will gentlemen point to the clause of the Constitution which confers it? Here then is a case in which, from the necessity of the case, no gentleman will venture to deny the existence of the authority to punish, and the propriety of its exercise. But does it stop here? Are we permitted to remove the nuisance only beyond the walls of this room. Extends it no farther? Cannot our deliberations be interrupted at the door, and on the staircase? The same

reasoning will apply to all portions of the House and to the street. Does it stop here? Will you permit the beating of drums and the firing of cannon under your windows, in the street, in front of this hall? Can we not remove such nuisances, and prevent their recurrence, by the punishment of those who caused them, for their contempt to this body? Certainly no one can deny it. We have, therefore, by admission, the power within and without these walls. Where is the limit, Mr. F. said? It was limited only by the jurisdiction of the United States, because to the extent of the jurisdiction was the necessity of the legitimate exercise of the power.

Mr. F. did not conceive those clauses of the Constitution, quoted by the gentleman from New York, applicable to the present case. The person in custody is charged with a contempt, punished summarily in all cases—not for an offence indictable and punishable by the ordinary course of judicial proceedings. Every gentleman, whether of the profession of the law or not, will know the distinction, and that these clauses of the Constitution were framed without any view to the exercise of this power to punish contempts, and without any intention to prevent its exercise.

But we are told, that this miserable man is called here to answer to some unknown law. He was somewhat at loss to understand the force of the remark; if it was meant to convey the idea, that there is no law of Congress defining the bribery of a member of Congress as a crime, and affixing an appropriate punishment, it was true. But if it meant, what it can only mean, if used with an application to this case, that we proposed to make an action, in itself innocent, criminal, and punishable, Mr. T. said, he must express his astonishment at the declaration. Ignorant indeed must be that man, who does not know that this action was not criminal in the highest degree. Every man carries in his own bosom a faithful monitor, instructing him how enormous is such an offence. He has committed an offence against a law known to him and to all mankind, for which, Mr. F. trusted, he would be punished as far the power of the House would permit.

Mr. F. said, the gentleman from New York acknowledged the force of precedents in judicial proceedings; there they are highly useful landmarks, not to be departed from without danger; but in legislative proceedings they are dangerous things. Mr. F. could not perceive the propriety of the distinction. A precedent in one place is omnipotent; in another a succession of precedents are to be disregarded. The judgments pronounced in similar cases, by the House of Representatives, were assailed, on the ground that they were established under the influence of passion. The gentleman, Mr. F. apprehended, had not examined the history of the cases to which he referred; he would find that they were established on due deliberation. If he would compare the conduct of this House, and that of the House of Representatives in '96, in the case of Randall and Whitney, he would find that suf-

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ficient cooling time had been furnished the House of Representatives before the commission of the fact. This House, yesterday, under the influence of violent indignation, adopted unanimously the proposition to arrest the offender. To-day we are cool enough to examine with critical accuracy and scrutinizing care, into the extent of our Constitutional authority to protect ourselves from the approaches of corruption, or the assaults of violence, while in the performance of our public duties. In the case of Randall, the offender was brought day after day before the House; he had counsel who defended his cause, and urged all the suggestions in his favor which his case would justify. He was, by a majority of four to one, deliberately condemned and deliberately punished, by a confinement of three weeks, for the contempt he had committed.

The gentleman from New York had read to the House the arguments which were made use of, on an occasion subsequent to that to which Mr. F. had referred, against the power of the House, and the observations of Mr. Jefferson thereon. Mr. F. called the attention of the House to the arguments, which the gentleman had not read, from the same authority. In debating the legality of an order issued by the other branch of the Legislature—an order of an extraordinary character, Mr. F. said, and one which he would not have consented to issue—for the apprehension of the editor of a newspaper, it was “insisted, in support of it, that every man by the law of nature, and every body of men, possesses the right of self-defence; that all public functionaries are essentially invested with the powers of self-preservation; that they have an inherent right to do all acts necessary to keep themselves in a condition to discharge the trusts confided to them; that, whenever authorities are given, the means of carrying them into execution are given, by necessary implication; that thus we see the British Parliament exercise the right of punishing contempts; all the State Legislatures exercise the same power, and every court does the same; that, if we have it not, we sit at the mercy of every intruder who may enter our doors or gallery, and, by noise and tumult, render proceeding in business impracticable; that, if our tranquillity is to be perpetually disturbed by newspaper defamation, it will not be possible to exercise our functions with the requisite coolness and deliberation; and that we must therefore have a power to punish these disturbers of our peace and proceedings.”

That precedent, therefore, was established, Mr. F. said, on the inherent right of the House, to do all acts necessary to the due exercise of the trust confided to them. This was the foundation on which, in this particular case, the power of the House was vested.

There was a certain class of powers, Mr. F. said, every day exercised by this House, something analogous to that which was the subject of debate. Whence was derived the power, which was frequently exercised by this House, and which was even frequently conferred on its sub-

ordinate committees, of sending for persons and papers? Did any one doubt the right of the House to do this? Was the right, which was of every day's practice, doubted? [Some gentleman here intimated that he did question this power.] Mr. F. said the power existed from necessity. How could the House ascertain the guilt or innocence of a public offender, whose conduct should be arraigned before it, without that power? It was essentially necessary that it should have it, to compel the attendance of witnesses, and the production of papers in their possession. That power had therefore been, and always must be, exercised without dispute; though there was nothing in the Constitution conferring that power on the House. The power arose by necessary implication from the duty imposed upon the House of examining into the conduct of the officers of the Government. Was not the analogy between the cases perfect? Here, said he, we have exercised the power of bringing a man before us for an offence which, if permitted to pass unpunished, will render it a disgrace, instead of an honor, to be a member of this House. Mr. F. concluded by saying, he trusted that in this case the House would do all they had hitherto done; that they would examine the accused, whether he denies or admits the charge; and, the offence being proved upon him, that he would be duly punished.

Mr. BARBOUR, of Virginia, said, that he was induced to ask the indulgence of the House whilst he submitted his view of this subject, not only because there was a great Constitutional question involved, but because he had acquiesced in the issuing of the warrant, upon which he was now decidedly of opinion that the House ought not further to proceed.

We are called upon, said he, to decide this question: whether the House of Representatives have the power to punish the person at its bar, for an attempt to bribe the chairman of one of its committees. After the most mature deliberation which he had been able to bestow upon the subject, he said he was satisfied that the House had not that power; that he would endeavor to state, as succinctly as he could, the reasons upon which that opinion was founded.

The attempt imputed to the person at the bar of the House, and about which there was no doubt, in point of fact, seemed to him to present itself in these two points of view: First, as a crime, to be punished because of its own enormity; secondly, as a breach of the privileges of a member of this House. As to the first proposition there could be but one opinion. The act complained of is one of the most abhorrent kind; but the word *crime*, *ex vi termini*, imported a violation of some law, either in the omission of some act enjoined by it, or in the commission of some act forbidden by it. That law must have been enacted by the legislative power—that is, by the consent of the two Houses of Congress. Now, as it was conceded on all hands that no such law had passed, as it was clear that no such law could now pass, so as by an *ex post facto*

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operation to relate back, and embrace this case; as, too, the execution of a law, by the infliction of punishment, belonged to judicial cognizance, the conclusion followed, too clearly to require further comment, that the act committed, or attempted to be committed, could not be punished by this House as a crime within itself. He spoke not here of the common law, which punishes crimes against the laws of morality—that law did not exist in relation to the United States; and if it did, this was not the tribunal to enforce it. We come now, said Mr. B., to the great question in this case, it is this: Was the attempt complained of a breach of the privileges of a member of this House? He said he would attempt to show that it was not.

If, indeed, this question was to be decided by the *Lex Parliamentaria* of Great Britain, he would not undertake to say what might be the decision; but, said he, we have a much better and surer guide—we have the Constitution of the United States to point out the course which we ought to pursue. It was that instrument, he said, which called into existence every department of the Federal Government, and which created this House as a branch of one of those departments; it was that which marked out the powers of the Legislature as a whole, and the powers of this House as a constituent part, as well as the privileges of its members.

By reference to the Constitution, it would be found that the matter of privilege was not left to construction. The framers of that instrument were deeply versed in the nature and history of Parliamentary privileges. They knew that, though they were undefined, because they had been said to be undefinable, they were marked with one strong characteristic feature—that they had perpetually advanced, that they had never retrograded. They therefore, in the sixth section of the first article of the Constitution, had accurately defined the privileges of members; they made them to consist, first, in a qualified exemption "from arrest during their attendance at the session of their respective Houses, and in going to, and returning from, the same;" and, secondly, "that for any speech or debate in either House, they shall not be questioned in any other place." Here, then, was the extent of our privileges.

He thought that, according to this universal principle of construction, that the mention of one thing was the exclusion of another, it was obvious that the Constitution had intended to restrain privilege, and tie it down to the particular cases stated in the section which he had just cited. But to put this subject in a point of view, if possible, still stronger, he begged leave to refer the House to the third section of Jefferson's Manual, in which will be found an enumeration of the privileges claimed by the British Parliament. That enumeration embraced, besides many others, the two cases mentioned in the Constitution. Hence it must be most obvious, that the Constitution did not intend to adopt the Parliamentary law upon the subject of privilege; because, as

that covered a much larger ground, if it had been intended to have given the whole, it is difficult, if not impossible, to assign a reason why it should have been thought necessary, by special enumeration, to have given a part.

There was no man in the House, he said, who could hold the attempt which had been made in greater abhorrence than himself; but whilst he considered it a daring attempt at wickedness, an outrageous insult to the feelings of the member, and as calculated to excite the detestation of all good men, yet it was not, as he thought he had proven, a breach of privilege. If it were not, then there could be no principle on which the House could pretend to take cognizance of it. There were many insults which might be offered to the members of this House, for which they had no remedy but those which were open to every other citizen. And, indeed, he referred the House to the same section of the parliamentary manual, to which he had before called their attention, to show, that, in a case of acknowledged breach of privilege, as, for example, the arrest of a member, the effect of such unauthorized arrest is, that the member is entitled to be discharged, and the persons concerned in the arrest are liable to action or indictment for their injurious violation of the member's privilege; but he did not believe that even in that case the House could inflict any punishment on the persons concerned for a contempt itself. But gentlemen had taken another ground in debating this subject; they had said that the mere creation of a legislative body, *ipso facto*, imparted to that body certain rights, and, amongst others, the right of self-defence; that as they had the power, so it was their duty to keep themselves pure; and for that purpose to punish any attempt upon the integrity of its members. This reasoning, said Mr. B., is too broad. Congress is the creature of the Constitution; it has, therefore, as he had observed in a former part of his argument, just those powers, and those only, which the Constitution had given it; and whatever powers are not given we must be content to think were not thought necessary. To Congress, composed of the two Houses, it had given the legislative power which it granted. But this was clearly no act of legislation; first, because it was a proceeding proposed to be carried on by one branch of Congress; and, secondly, because it did not propose to provide a punishment for future cases, but to inflict it upon one which had already occurred. But, besides the legislative power granted to Congress, as composed of the two Houses, there were certain powers granted to each of the Houses respectively. Let us then see what are given to the House of Representatives. They are all to be found in the second and fifth sections of the first article. He said there was no power given the House affirmatively to inflict punishment upon persons not members for any offence either against the House or its members. Was it to be inferred from the powers which were given? So far from it, he said, that he thought the inference deducible from the nature of the powers given almost irresistible,

that such power was not intended. The great argument had been that the creation of the Legislature imparted to it certain inherent powers as a part of its nature and existence. Now, sir, said he, let me ask, what power could be more inherent, in a legislative body, than that of appointing their own Speaker? And yet this power is expressly given. What could be more inherent than the power to determine their own rules of proceeding? And yet this was expressly given. What could be more inherent than the right of punishing one of its own members for disorderly behaviour? And yet this was expressly given. He asked whether the giving powers like these, which, if there be any such thing as inherent powers, would have been so considered, did not incontestably prove that the Constitution meant not to leave this subject to doubtful construction, but, on the contrary, to give to the whole of the legislative body which it created, as well as to its several parts, the laws of its and their existence, and to impart to them by grant the powers necessary to the performance of their several functions. Sir, the framers of the Constitution meant to guard as carefully against the latitudinous construction which might be given to indefinite powers, as they did against indefinite privileges; they therefore determined to bring down both power and privilege to a Constitutional standard, so that they might be easily measured. It would have been a vain thing to have circumscribed Congress in its legislative power, if the two Houses which compose it had been left, like the British Parliament, to range at large, in the wide field of inherent powers, and indefinite privileges. If, said Mr. B., the House had power to take cognizance of this case and to punish it, where would they stop? This insult or this attempt upon one of the members was committed not in this House, but in the District of Columbia; suppose it had been committed in an extreme part of the United States, would our jurisdiction have reached the offender there, and should our Sergeant-at-Arms have been sent to arrest him? The consequences to which this doctrine would lead seemed to him to show that it could not be sustained. Nor, said he, is there so much danger to be apprehended from the contrary doctrine as gentlemen seem to suppose; he thanked God the attempts which had been made were but few, and in each instance had failed; if they should hereafter be repeated, he hoped and believed there was a long, very long, tract of future time between us and that period when they should prevail; if any attempt of this kind fail, the man who makes it is foiled in his wicked effort, and covered with disgrace; if unhappily it should ever succeed, we have a Constitutional remedy at hand: by expulsion, we may drive from us the unworthy member, and, having cut off the gangrenous limb, the rest of the political body will be restored to health. True, sir, the expulsion of a member requires the concurrence of two-thirds; but does any gentleman doubt for a moment but that if the acceptance of a bribe were proven, two-thirds, ay, three-thirds, would

instantly unite in a vote for the expulsion of him who should have accepted?

But, gentlemen have asked if the House have not the power now contended for, whence is derived the power to remove noise and disturbance from the gallery? Whence the power to send for persons and papers in prosecuting an inquiry before a committee? In relation to the first, he answered, that, by the Constitution, each House had a right to determine the rule of its proceedings; now it was competent for the House, in establishing the rules of its proceedings, to say whether any person should come within the walls or not; to say that when they were thus admitted, they might continue so long as they conducted themselves in an orderly manner, and, when they act otherwise, that the Doorkeeper whom the Constitution authorized it to appoint, by the authority given it to appoint its officers, should turn out such disorderly person; accordingly one of our rules directs, in substance, that the Speaker shall take care to have all disorder removed from the gallery. It is, said Mr. B., our House, provided for the purposes of legislation; as we have a right to say who shall come in, and when, so also have we a right to say, when the persons admitted by our courtesy shall be put out. In relation to the second, he said, the same power to establish the rules of our proceeding and to appoint our officers, to which he had before referred, authorized us to prescribe the manner in which any inquiry of which we have Constitutional jurisdiction shall be conducted, and to appoint a Sergeant-at-Arms for executing the necessary process, &c., for carrying on that inquiry; but these rules must have relation to the object of carrying on some business which was properly before the House or its committees.

Mr. B. said, that he had now given his view of the question before them; he hoped he had satisfied the House that it had not the Constitutional power to punish the person at its bar. But, if there were even a doubt upon the subject, he called upon gentlemen to recollect, that in ordinary cases a party was tried under some pre-existing law announced to the people; that one power enacted the law and another executed it; that neither the Legislature enacting, nor the Judiciary expounding was a party; but that here, in the same sentence, they were called upon to announce the rule, and to give judgment, by applying that rule to the particular circumstances before them; and that too, said he, in a case in which we ourselves are the parties. We thus legislate and adjudge in our own case. This has been said to be the very definition of tyranny. Sir, said Mr. B., I am not afraid that this House would practise oppression in the particular case before us; but, let it be remembered, that constitutions and laws are not made for good men and good times, but for bad men and bad times; as, on the one hand, experience has shown, that men, as men, will do wrong; so, on the other hand, the same experience shows that men, as political agents, ought to be controlled by some checks. Laws are intended for the first; constitutions for



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the second. With regard to the individual at the bar of the House, whatever may be our feelings towards him, it should be remembered that, in his person, we are settling a great question of Constitutional law.

Mr. ROBERTSON, of Louisiana, asked the attention of the House for a few moments. He would not travel over the ground which had been so well and so fully occupied by gentlemen who had preceded him. He would not repeat their arguments, nor restate their views, further than was necessary to explain and to connect his own opinions. Thus restricted, he had but little to add. Before, however, entering on the subject, he would remark, that he did not agree with the gentleman from Kentucky, in the mortification he had expressed at being compelled to retrace his steps. When the detestable conduct of Anderson was made known to the House, it produced strong and universal indignation; under the impulse of honest feelings, they had unanimously resolved to bring the culprit before them; but now they had had time for reflection, reason resumed her empire over the mind, and he (Mr. R.) was prepared, although reluctantly, to abandon the impulses of sentiment, for the colder dictates of judgment.

The gentleman from New York (Mr. SPENCER) has, with great ability, pointed out the rights of the citizen, and very satisfactorily shown, that, without a denial of them, we cannot proceed further in the present prosecution. But yet something more was left to be done. The rights of the citizen under the Constitution are sometimes made to yield to powers vested in the Government, or the departments thereof; and the gentlemen from Kentucky and Virginia (Messrs. ANDERSON and BARBOUR) have, with much clearness and precision, demonstrated that there is no power vested in this House by which it may prostrate rights otherwise so positively secured to the citizen. These rights, again I say, have been fairly stated by the gentleman from New York; and, in the case now before us, however infamous it may be, they remain untouched by any legitimate exercise of the power of this House.

The Congress of the United States possesses none but delegated powers, both in regard to the community, and the two Houses of which it is composed. Each House, and each member, has its rights; but they are not arbitrary—they are not left to be asserted at pleasure—they are written down and clearly ascertained. It is with this latter branch of the subject that we are now alone concerned; and no farther concerned than as it respects the privileges of the House, or its members. The privilege of the House, under the Constitution, consists in the power it possesses over its own members and proceedings; the privilege of the members, in their exemption from arrest, and from being questioned elsewhere for what is said in the House. Is Anderson's offence a breach of privilege? Surely not, if there are no other privileges than those enumerated. But it is a contempt, an insult; it is all

that, and more. But the Constitution and laws of the United States are silent on these subjects; and, although I will not say that we have no power to legislate on them, I do think that we cannot act on them without previous legislation. With a view to a better understanding of this subject, I have examined, with some care, the constitutions of the different States of the Union; and I find that, although the State Legislatures are said to have plenary power to represent their constituents completely, and to possess all powers not expressly denied them, that yet it has been thought better to define and limit their powers than to leave them in the breasts of those for whose more immediate and personal benefit they were to be exercised. Accordingly, the constitutions of New Hampshire, Massachusetts, Maryland, South Carolina, Ohio, Georgia, Tennessee, and Vermont, define the privileges of the respective Houses of their Legislatures in the same manner as is observed in the Constitution of the United States: while others of the States, where privilege is not defined, expressly give all powers necessary for a branch of the Legislature of a free and independent State. The Houses of the State Legislatures would not contend for other privileges than those expressly given, although it is generally true that they possess all powers not expressly denied. How, then, can this House, which has no powers but such as have been granted, contend for privileges not enumerated in the Constitution?

But, say gentlemen, this is a question not of privilege, but of contempt, of insult, of disrespect. Privileges are defined and limited, but we are the sole judges of our powers in regard to contempt. It would seem, then, from this view of the subject, that our powers, in respect of privilege, cannot be so extended as to embrace contempts and insults; but that here we stand on better grounds, for we can not only create the power, but judge of its extent. Thus, sir, are we weak and restricted where power is given; but, if it be not given at all, strong and irresistible.

The States, jealous of legislative bodies more responsible than the Senate and House of Representatives of the United States, have not left with their own immediate Legislatures unlimited and discretionary power in regard to contempts, insults, and other similar offences. They have not only said in what they shall consist, but how they shall be punished; and I can find no offence whatever, of this description, punishable by either branch of any State Legislature, unless it be committed in presence of the House. Thus it is provided by the constitutions I have before spoken of, that each House may punish any disrespect, by disorderly behaviour, in its presence, by imprisonment, not exceeding thirty days, in some of the States, and twenty-four hours, in others. But the powers of the State Legislatures would not reach the case before us, because, if it be a contempt or insult, it is not offered in presence of the House; and, if it be anything done not in its presence, or view, that the House

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can punish, then it must be a breach of privilege; but privilege, is freedom from arrest and question, for observations made in the House, and nothing more.

Taking, then, into consideration the satisfactory views of the gentlemen who have preceded me, together with the provisions of the State constitutions, I am forced to conclude, that the House can punish no citizen for any act whatever, done or committed without their presence, unless it be a breach of privilege, or breach of a privilege given by the Constitution; and, further, that it can punish no contempt, insult, or outrage, that is not offered in its presence. The infamous proposition of Anderson is not a breach of a privilege; it is a contempt, an insult, an outrage, but it is not done in presence of the House, and is, unfortunately, punishable in neither case. The doctrine I contend for, however convenient and restrictive, is explicit and defined, and at the same time sufficiently broad to protect this House and its members in the free exercise of their rights. While, on the other hand, the principles of gentlemen, who contend for power to punish the act under consideration, are vague and unsatisfactory, unlimited and uncontrolled but by their own discretion.

MR. TUCKER, of Virginia, said there was one thing at least in which he would most heartily concur with the gentleman from New York, who had offered these resolutions to the House; that the exercise of the power of committing for a contempt of this body, was of so embarrassing a character; and was, in some respects, so little consonant with the general principles to which we yield our assent, that it was desirable another mode should be adopted of punishing offences of so deep a dye, without bringing the offender for his trial and punishment before the body whose privileges had been infringed, and whose dignity had been insulted. It was for this reason that, on a former day, he had intimated an intention of submitting to the consideration of the House a resolution similar to one of those now under consideration, directing a bill to be reported for the punishment of the offence of bribing, or attempting to corrupt a member of Congress. It was for this reason also that, however heinous the offence of the party whose case was now before the House, he was, on the present occasion, disposed to manifest towards him the greatest moderation and forbearance. He was so averse to the exercise of a power to punish, where the offence and the punishment are so undefined, and where the tribunal which judges cannot fail to be animated with indignation against the offender, that he was inclined, on the present occasion, to dismiss the party, after the offence had been inquired into, without farther punishment than the reprimand of the Speaker; and to provide for any future case by the enactment of a law imposing penalties adequate to the offence.

But, while he was disposed to this course, he could not assent to the proposition of the gentleman from New York, which disavows any authority in this House to punish the offence, as a

contempt. It appeared to him essential that this power should exist in the House of Representatives, though it might be wise in them to relieve themselves for the future from the embarrassment of exercising the privilege themselves, by providing for its punishment by law. While he could not doubt of the Constitutional powers of the House on this occasion, he would ask gentlemen what would be our situation, if we were without such powers? What would be the effect of promulgating to the world that the House of Representatives was at all times to be approached with impunity by the vilest corruption? That bribes might be offered, without hazard, by the most infamous of mankind, and that the Constitution had left this body without the means of preserving pure the fountains of legislation, and of protecting itself from so vile a contamination! He should hesitate much before he should adopt a proposition which might lead to such dangerous results; and he should be diligent in examining the principles of the Constitution before he could give his assent to a doctrine which would sap the purity of this body, for the preservation of which that Constitution was so solicitous.

Nor was he disposed to coincide in the opinion of the gentleman from Virginia, (Mr. BARBOUR,) that, as it is at least doubtful whether we possess the power asserted, we should decline the exercise of it. He was not satisfied that there was a reasonable doubt of our powers. Ingenuity may throw obscurity and difficulty around every proposition. Nor did he perceive what part of the Constitution prescribed to us as a rule, to reject the exercise of every power where doubt could be thrown around it. On the contrary, in taking the solemn oath to support the Constitution, to which another gentleman had so emphatically alluded, he felt himself equally bound to preserve to the Federal Government, and to this body, their just powers, as to guard against encroachment on the rights of the States, or an extension of the powers of the Union. It was equally the duty of every member of this body to prevent the most vigorous and useful branches from being lopped off, as to array himself in opposition to every assertion of unconstitutional powers. Upon all occasions of this kind, however doubtful and embarrassed might be the question, it was the solemn duty of every member to examine it according to the best lights which Heaven has given him, and to pronounce fearlessly the result. It was this course he should endeavor to pursue in presenting a very few remarks on the Constitutional powers of this House.

There were, he observed, two kinds of powers granted by this Constitution: enumerated powers, and incidental or accessory powers; the first expressly specified in the Constitution, the latter falling under the general grant of all "necessary and proper powers," which terminates the enumeration of the powers conferred on the General Government. The latter, indeed, would have existed independent of that clause, since, according to the principles of common reason, when a power is given to do an act, a power of em-

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ploying the means necessary to its execution is also given, by implication.

While, therefore, it is readily admitted, in relation to these two classes of powers, that the power now asserted is not expressly given, it is confidently alleged to be fairly incidental to the power of legislation; and it will be contended—That the power to punish bribery of a member of this House, is vested somewhere in the Federal Government; and, that this power of punishing belongs to the House of Representatives, independent of the other branches of Government.

That a legislative body should exist without any power to punish the offence of bribing its members, is a proposition which seems too monstrous to be alleged. Hence it is that gentlemen seem disposed to acknowledge a power in the Legislature to pass a law which shall prescribe a punishment for the offence, though they deny the power of this House to proceed to consider and treat it as a contempt. And where, let me ask, can gentlemen who are so technically accurate in the construction of the Constitution, discover that clause of the instrument which expressly grants the power to enact such a law? There is none. The boundaries of the Constitution cannot be laid down with mathematical precision, by the square and compass. They must be ascertained by the principles of sound reason and common sense, and by the exercise of a just discretion. While, therefore, we cannot discover the power even to legislate on this subject, in the express provision of the instrument, it is doubtless fairly incidental to the power of legislation. It is inconceivable that the convention which framed the Constitution should have intended the creation of a legislative body, which should be without the power of self-protection; without the right to assume to itself freedom from disturbance; without the means of securing order in its deliberations; and without the privilege of preserving itself entirely free from the influence of fear, or the corruptions of gold. Some of these incidents to legislation, gentlemen have been compelled to admit. In what a situation should we be, if our deliberations were to be affected by the hisses or the applause of the gallery; if an obnoxious member were to be put down by the threats or tumult of the audience, and a favorite speaker cheered on a favorite subject by shouts of approbation? Can gentlemen deny that we have power to prevent these things? The gentleman from Virginia appears to confine us, even under these circumstances, to the remedy of excluding those who are riotous. Within the walls alone have we power to act, and then only power to exclude—not to punish. Suppose, then, the rioter returns, or betakes himself to the street, and throws stones at your windows. He is without your doors. Have you no power over him? Have you not accessarily even those powers which every court of justice possesses, without the express provisions of law? If you have not, the situation of this body is deplorable indeed. If you have, where will you draw the line of

distinction? What is more important, even in the order and decorum of the House, than the preserving the mind of every member free from the suggestions of fear—the seductions of profit—the grovelling desire of gain—the influence of corruption? What shall we say if an attempt be made to control, by threats or by a challenge, the free and deliberate exercise of his judgment, by the representative of the people? Though the challenge be given without the walls, is not its effect to be felt within; and is it not this (and not the place where the act is done) which must be considered as determining the powers of Congress? The principle on which it can interfere in any case, is the right to prevent its deliberations from being disturbed; and whether this disturbance be produced by an act in the gallery, in the street, in the highway, or in the closet, the body must equally have the power to secure to itself the exercise of free will in the discharge of its legislative functions. And if these principles be correct—if they justify a right to punish occasional disorder, how much more important the privilege of preventing the inroads of corruption, at the same time so insidious and so fatal?

But the gentleman from Virginia, who has argued this question with his usual ability, relies very confidently on that clause of the Constitution which secures to members freedom from arrest; and from the expression of the privileges contained in this clause, he argues that no other privilege can be presumed to have been intended. But, in an instrument like this, in which so many instances occur of surplussage, and of the express grant of powers, which (though not expressed) would have followed as incidental, no fair argument can be deduced from the express mention of one privilege against the existence of others. To exemplify this position; the Constitution gives the power of "declaring war," and the power of "raising armies and creating navies." Might not the power of making rules for the government of the land and naval forces be fairly considered as incidental? Could it have been intended by the convention to confer the power of raising an army without the power of governing it? And yet we find that, though this power would have been fairly considered as accessorial, yet it is inserted among the express or enumerated powers. Nor is this the only instance in the Constitution—they are frequent. They proceed from the imperfection of all human transactions, an imperfection from which, in these respects, our Constitution is not free.

It is not therefore fair to conclude that we have, as a body, no other privileges, even if some privileges be granted expressly by the Constitution. But there is, in truth, a distinction between the privileges of members and the privileges of the House. The first would have no existence but for the provision of the Constitution, the latter cannot but exist as an incident to legislation. The former are those which are specified in the clause referred to; the latter are more extensive in their character, and a breach of them

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constitutes what is generally considered and denominated a contempt.

Mr. T. said that, if it had been sufficiently established that the power of punishing an attempt to bribe a member of this House is vested by the Constitution somewhere in the Federal Government, it would be not less easy to prove that the power must exist in this House independently of the other branches of the Government. In other words, however advisable it may be to provide by law for the punishment of the offence, this House may protect itself, even if there be no such law. For how do we deduce the power to pass a law? From the delegation of an express power? By no means; but from the necessity of its existence to enable the legislative body to perform its high and important functions, without the taint of corruption. If, then, this necessity gives the power at all, it equally requires the authority to exercise it to be vested in this House, independently of the Senate, and particularly of the Executive. For, if the House of Representatives can only be protected by the passage of a law, it must depend for its protection on the Senate at least, and perhaps on the Executive also. And what may not be the situation of this House if it is hereafter to depend for its privileges, and its protection from the influence of corruption, upon the Executive branch of the Government? Is that branch of the Government from which, according to the true theory of our free Constitution, the greater danger of corruption is to be feared. It is from that branch of the Government that the purity of the legislative body has been always most in danger, and by which it has been always most assailed. Gentlemen will not understand me as having the remotest allusion to the present Executive, for whom, under varying circumstances, whether popular or unpopular, I have always entertained respect. But we are told, and truly told, by the gentleman from Virginia, (Mr. BARBOUR,) that laws and constitutions are made for bad men, and have their deep foundations laid in the iniquity of our nature. When the days of purity and virtue shall have passed away, and an Executive Magistrate shall attempt to influence this House, or any of its members, by its corruptions, how deplorable will be the condition of this body, if it must depend upon such an Executive to give its assent to laws to preserve the House of the people from such pollution! What are the petty attempts of such a man as John Anderson to the dangerous and fatal influence and intrigues of a designing and artful Chief Magistrate, if such should ever fill the Presidential chair? Can it be on such an one that the convention could ever have intended we should depend for our protection from the assaults of violence, or the wiles of corruption? Can that convention, whose work contains so many evidences of jealousy of Executive power and influence, have intended that this body should look for its power to punish a crime, to that branch of the Government which the history of the world has taught us, is under a constant tempta-

tion to commit it? I think not, sir; and while I feel satisfied that the power to punish exists *somewhere*, the same train of reasoning, convinces me that that power exists *here*, independent of every other branch of the Government, if we choose so to exert it.

Mr. T. said there were other views of the subject which he had been desirous of presenting; and particularly some remarks in reply to the latter part of the argument of the gentleman from Virginia, (Mr. BARBOUR,) who seemed to have conceded, by some of his positions, what he had so strenuously opposed in the commencement of his observations. But he should forbear to detain the House any longer, as other gentlemen were probably desirous of offering their views of the subject.

Mr. MERCER rose immediately after Mr. TUCKER, and addressed the House in substance as follows:

If the honorable gentleman who had just sat down felt it necessary to terminate his argument abruptly, rather than consume the time of the House, much more does it become me, sir, at this late hour of the day, to apologize for detaining you one moment longer.

Nor should I offer any observations on the subject of the present debate, if I were not inclined to sustain the authority of the House upon grounds somewhat different from those who have preceded me.

The resolutions on your table, Mr. Speaker, involve the decision of three distinct propositions. Has this House the power to punish contempt? Is the act charged upon the prisoner a contempt? Have the proceedings of the House been such as to warrant his further prosecution?

Does this House derive from the Constitution the power of punishing a contempt? My honorable colleague, who just preceded me, in a spirit of accommodation, I have no doubt, has proposed to introduce a bill to punish by law an attempt to bribe a member of Congress. If the power of punishing such an act is comprehended among the privileges of this House, the wisdom of any such law may well be questioned. Were the contemplated law restricted to a description of that particular species of contempt to which our consideration is now turned, it would not lead to the inference that this House recognised no other. And if, to obviate this difficulty, a complete enumeration were attempted of every possible insult to the privileges, rights, and dignity of this House, the proposed law would be swelled to the size of the largest volume on your table. It may also be doubted whether a right which this House does not derive from the Constitution can be created or protected by an act of ordinary legislation. Those gentlemen who are desirous for a law to define the privileges of this House and to provide for punishing the contempt of them, admit their existence, as well as the power of this House to punish their violation, by the mode of reasoning which they have adopted.

Before I inquire into the origin of this power, allow me to disavow every feeling which could

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militate against the most deliberate and impartial exercise of my judgment. I cannot but deplore the unhappy situation of the prisoner, whose head is bleached by the snows of many winters, and who, if really guilty of the atrocious act imputed to him, is an object of still greater commiseration, as his turpitude is without the extenuation of youth or inexperience.

Sir, said Mr. M., I never beheld a criminal arraigned at the bar of justice without this feeling; nor have I found it difficult to obey the legal injunction to believe the innocence of the accused until he has been heard in his defence and judicially convicted. This maxim of christian charity is comprehended in that admirable system of practical wisdom which has been repeatedly referred to in this discussion; a system matured by the experience of ages, adopted by the universal assent of the people of the United States, and denominated the common law.

It is to this system that I resort for the authority of this House to punish a contempt; to define the act to be punished; to determine the mode of proceeding against the accused; and, if guilty, to ascertain the quality, and measure the extent of his punishment.

And I do so, not because the common law confers these powers on this House, but because it defines that written Constitution from which we derive them.

Sir, there is not an entire article, not a solitary section, scarcely a line of that instrument, which can be correctly understood, or practically enforced, without a recurrence to this law.

If you desire to know the import of an English word, you turn to the lexicographer of England; for a phrase of statutory law you consult the statute which contains it, and the precedents by which it has been expounded. The terms of the common law must be also defined by a recurrence to the law itself, comprised in the treatises and illustrated by the history of the nation from whom we derive it.

The Constitution not only uses the terms and phrases of this law, but expressly recognises its existence. The seventh article of the amendments provides, that "in suits at common law, when the value of the controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law;" of that law which gentlemen have asserted to have no existence under this Government, and against which the honorable member from New York would inspire us with apprehension and alarm.

That honorable member, in his late impressive address, admitted that the two Houses of the British Parliament possess the power of punishing contempts; that the *Lex Parliamentaria*, or usages of Parliament, is a part of the common law, although he denies a similar authority to the House of Representatives and Senate, the two branches of the Congress of the United States.

Universal consent has applied the maxims of this law to the protection of all our State and Federal courts, and why should it be denied to this House? What are we, said Mr. M., and how acting at this moment? As a court, of which you, sir, are the presiding and we the associate judges. The original of the British Parliament, the ancient Wittenagemotte, was a court, and one of its branches is the highest judicial tribunal in England. Both Houses of Congress have powers strictly judicial in their nature and application. If a Federal or State court, consisting of a single judge, is invested, by common-law construction, with authority to punish contempts of its authority and dignity, this assembly of judges may constitutionally exercise the same authority. That Constitution which confers on the representatives of the nation the power of legislation, and denominates this body a House of Representatives, clothes it with the common-law attributes appertaining to its office and its title.

Sir, said Mr. M., why this indignation against the common law? Our forefathers defended it, in the Old World, against Norman invasion, ecclesiastical fraud, and royal encroachment. They brought it hither; they planted it; and we have flourished beneath its shelter.

The common law! Had I the tongue of Henry, I would portray to you its excellence. He who implored the Convention of Virginia to reject this Constitution because it did not expressly adopt this law in all its maxims, the most eloquent champion that American liberty ever drew to her support, regarded this Constitution, which he had not tried, with suspicion, and the law under which he had lived with confidence and affection.

The doctrine which I advance, in relation to this Constitutional question, is congenial with the purest American feeling. The common law is that of the land which gave me birth. It is the law of every State of this widely extended Union. On its broad and solid basis rest the free constitutions of these States, as well as that noble structure which is committed to our care.

Sir, this law was not that of my remote progenitors. Erin's green turf, and the brown heath of Caledonia, although my eye never beheld them, are, I acknowledge, dear to my heart. This feeling is not inexplicable. Who is so base as to hear an insinuation against his father's name and not feel the life-blood mount to his cheek? Sir, this feeling binds us, not only to our ancestors, but to the land which gave them birth; it flows from the same fountain with that stronger sentiment which binds us to our own natal soil. It is not at war with the impulse of general benevolence, or callous to the merits of other nations. I can turn my eye across that channel along which my fancy has just conducted me, and exclaim in the language of the sweetest bard of Ireland—

"Gay, sprightly land of social mirth and ease,  
Pleased with thyself, whom all the world can please!"

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How altered is this scene ! Sir, the tear of pity must start from every eye at the sufferings of a misguided, much oppressed, but gallant nation.

Do we look for the monuments of our own history no farther back than the glorious era of '76 ? Are we ashamed of the achievements of our British ancestors, that we have begun to condemn their laws ? Who can speak or think of freedom without recollecting the names, of Locke, of Hampden, and of Sydney ?

Sir, I beg pardon for this digression. It was forced from me by the cloud which I thought I saw gathering on the brow of the House when I referred to the common law as the expositor of the American Constitution.

The colonists of Great Britain brought their laws with them to America. Their new lot was beset with difficulties and dangers. The savage lurked in his covert. The forest was to be opened to the light of cultivation. It was not a time, sir, to sit down in order to deliberate and to change their laws. Had they possessed the leisure, they had not the inclination, to innovate upon the established customs and usages of their forefathers. Those emigrants who united with them, from other countries, took the laws as they found them, and, if so inclined, they had not the power to change them.

These laws, and the habits of thinking, from which they sprung, and on which the laws themselves reacted, were incorporated with every political institution which they founded. The Parliament of England, and the courts of Westminster, were the models of their legislative assemblies, and of their judicial tribunals. Their constitution, their powers, their forms of proceeding, and their rules of decision, were sometimes prescribed by their laws, but generally left to implication, from the great fountain of practical wisdom—the common law of England.

I appeal to my colleagues, if this constitution had been formed contemporaneously with that of Virginia, would not the same power to punish contempts attach to the House of Representatives and Senate of the United States, as unquestionably belongs to the corresponding branches of the General Assembly, the House of Delegates and Senate of Virginia ? From the form of the Speaker's chair to the power of expelling a member, the character and authority of the House of Delegates is derived, without any express Constitutional provision, from the House of Commons, the archetype of the popular branch of every State Legislature, as it is of this House.

The force of the argument which this analogy furnishes, is not impaired by the consideration that the Federal Constitution is of more recent structure. It is the act of the people of the United States, as itself proclaims ; and, referring expressly to the common law, in one of its articles, unintelligible throughout, except by the aid of that law, we have a right to resort to its maxims in the present inquiry. If this power is essential to the House of Commons, so it must be presumed that the people of these States regarded it to be,

and so must we consider it in relation to the two Houses of this Legislature.

It has been urged that many extravagant doctrines would arise from this source of constructive authority. Where, it is asked, shall this House stop in its use ? The Revolution of 1776 answers this question. It necessarily lopped off the regal and aristocratical branches of this law. This limitation of the common law relieves the rule of construction, for which I contend, from all that could alarm our fears. It is founded, I am inclined to believe, in judicial decisions throughout the United States. By the unanimous judgment of the General Court, the highest criminal tribunal of Virginia, the principle has been extended so far, as to authorize a defendant, indicted for a libel at common law, to give the truth in evidence. This House derives, therefore, from the common law, no privileges which it ought not to possess.

One of my colleagues has contended that all the privileges of this House are expressly enumerated by the sixth section of the first article of the Constitution, and restricted to exemption from arrest, in certain specified cases ; and from responsibility elsewhere for any speech or debate in the House. And hence, with great apparent plausibility, he infers that the House possesses no other privilege, and has authority to punish no other contempts, except such as are committed in violation of these. I answer to this argument, it has already been contended by the honorable member who last addressed the House, that this clause of the Constitution may be justly regarded as the result of that extreme caution which induced the convention to insert in it what might otherwise have been inferred ; a caution which is discernable in other parts of this instrument. To the illustration which he has furnished, many others may be added ; as, for example, the very first article of the amendments. The greater part of these are designed to serve the purpose of a bill of rights, for which so many opponents of the Constitution had most zealously contended. It cannot be presumed that if this amendment had not been made a part of the Constitution, Congress would have prohibited the free exercise of religion, have abridged the freedom of speech, or obstructed the right of the people peaceably to assemble and to petition for a redress of grievances. I am, however, led involuntarily to another explanation of the expediency of expressly incorporating in the Constitution the two privileges to which my colleague has referred ; an explanation, which is in strict harmony with all the views that I have taken of the general power of this House to punish contempts of its privileges. Every other privilege of this House, except those which are enumerated, will be found to be consistent with the obvious and equal rights of the people. The enumerated privileges are limitations of those rights, and, but for the express grant of them by the people, it might have been doubted whether the character of our republican institutions did not forbid their exercise. In fine, these enumerated privileges protect the



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members of this House, against the common and dearest rights of the citizen—the rights of property and reputation. The privileges for which I contend would protect the House from their injuries, from fraud, violence, and injustice.

It cannot be justly inferred, therefore, that the enumeration of these privileges excludes the Constitutional exercise of all others. The Constitution which had sought to enumerate these, must have been satisfied with general terms of vague signification, or proceeded to an enumeration of particulars, which no Constitution ever did attempt to embrace. If it is admitted, and it seems to be generally conceded, that the House has power to punish contempts committed against its peace and dignity within this hall; then the object of the supposed enumeration totally fails, and with it this pretended limitation to the authority of the House, to punish contempts wherever they may be committed.

I will not unnecessarily consume the time of the House, in attempting to prove that an attempt to corrupt one of its members, while engaged in the discharge of his duties, is a contempt of its authority and dignity. The honorable member from Georgia, in an early stage of this debate, and the gentlemen who have since followed him, have completely occupied this ground; nor has it been contended by any of our opponents, that such would not be a contempt of the House of Commons. I hasten, therefore, to inquire, whether this House has proceeded legally in the arrest of the prisoner?

The honorable member from New Hampshire will, on examination, perceive that the warrant for the arrest is not, as he contended, a general warrant. It describes the prisoner by name. But it has been urged, with more apparent force, that it is unsustained by any oath or affirmation, and therefore is in violation of the fourth article of the amendments to the Constitution, which provides that no warrant shall issue but upon probable cause, supported by such evidence. The Constitution certainly supposes the judge who issues the warrant, not to be himself personally cognizant of the fact on which it is grounded. He may issue a warrant on "probable cause, supported by oath." It is certain, conviction of the truth of the fact must supersede the necessity of any oath, to say nothing of the absurdity to which such a doctrine might lead. A judge is assaulted and beat as he enters the court in which he is about to sit alone; will it be contended that he shall first make oath of the fact, and then issue his warrant for the apprehension of the offender? In this case the witness is a member of the House by whom the warrant is issued—a judge, in whose presence the alleged fact occurred. The warrant itself is issued on the signature of the Speaker, but by the order of the House, whose act it is, and therefore the act also of the member on whose information the warrant was issued.

Before I close my remarks, I cannot forbear noticing an observation of the honorable mover of the resolutions on your table, upon the precedents which have been so aptly and forcibly ad-

duced, to sustain the authority of the House to punish the particular contempt which has given rise to this debate.

It has been contended, sir, that precedents are dangerous to liberty; that they favor the inroads of power upon the rights of the people. Such, I must confess, sir, is not my doctrine. It has been correctly said, by a profound judge and an able civilian, that the multiplicity of laws constitutes the security of the citizen. So, sir, does the multitude of precedents which, sanctioned by usage, operate with the force of law.

Precedents established in good times, stay, in disastrous days, the rage of faction, and the hand of tyranny—a Pharos erected on the margin of a stormy sea, by the light of which the mariner may anchor or steer his bark in safety.

The case of Randall, in 1796, to which the honorable member from Georgia called the attention of the House, forcibly as he has used it, was entitled to yet higher respect, from a consideration which had not occurred to him. The honorable member stated that it had arisen before the formation of parties in our public councils. He has certainly mistaken the history of the day. I was then but a boy, and am perhaps older than the honorable member. I may be allowed to remind him of facts which had an important bearing in support of this precedent. Does the honorable member recollect nothing of the controversy of the assumption of the State debts, the first Bank of the United States, the ratification of the British Treaty; nothing of the attempt to impeach Alexander Hamilton; nothing of those angry passions which in those days shook the Administration of WASHINGTON to its foundation? [Mr. FORSYTH explained. He referred, he said, to the division of the parties by their present names.]

Mr. M. proceeded: A member whispers to me, that they were called Federalists and anti-Federalists. This denomination, sir, was applied at an earlier day than that of which I now speak. The title of Democrats succeeded to that of anti-Federalists, and Republicans to this again. Yes, said Mr. M., the Federalists suffered themselves to be outwitted in yielding the popular title to their opponents—a prominent cause, I have no doubt, of their ultimate discomfiture.

I have not called the attention of the House to this topic, in order to revive unpleasant recollections, but for a more legitimate and useful purpose. Even in the times of party dissension and political animosity, 78 members voted in support of that authority of this House, which is now questioned, and 17 only against it; while the majority were equally divided between the two rival parties.

A precedent entitled to higher confidence could not be adduced. It is a precedent, too, directly in point; establishing not only the general authority of the House to punish contempts, but a contempt of the same species with that which has occasioned this debate.

Mr. ROBERTSON supported the resolutions.

Mr. ERVIN, of South Carolina, next rose. He said, after erudition had produced all its learning

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and eloquence to embellish the subject before the House, he rose to address it with considerable embarrassment; and his diffidence was increased by immediately succeeding an honorable gentleman (Mr. MERCER) who had given so great a display of talent. I am incapable of following him, said Mr. E., into the beautiful fields of imagination, where reason loses her powers of conviction, and where judgment must yield the sceptre of decision. It is alone the prerogative of genius to riot in the luxuries of fancy, and not only to investigate, but irradiate, all subjects presented to it for discussion. The task which I shall assign myself is more humble. I shall, in the cold and uninteresting terms of technical phraseology, endeavor to convince this honorable body that the resolutions ought to be adopted, and that it possesses no power to punish, unless in pursuance of some provision of law or constitution; and there being none, the defendant ought to be discharged. I shall vote his discharge with considerable reluctance. The insult he has offered to this honorable body is without palliation or excuse. We heard, said Mr. E., that in the late war his services were beneficial to his country. Our judgment, tempered with the honorable feelings of patriotism, passed a part of his accounts by a flattering majority. Not satisfied, he yet dared to insult the integrity of this House through the medium of the honorable chairman of the Committee of Claims, with the offer of a bribe.

The common law has been appealed to as the source from whence this House derives its power to punish in case of a breach of privilege. As a standard of construction, I admit the propriety of the appeal to enable us to ascertain the meaning of technical terms, derived from the common law, and which have been ingrafted into our Constitution. But as a rule of our conduct, and obligatory on our present decision, I deny the correctness of the application. For it must be recollected that the common law, which I admit is the wisdom of ages, is merely the municipal regulation of a foreign Power; and until it is made of force by the Constitution, which forms our rule of conduct, ought not to govern us.

I beg leave now, sir, to call your attention to what I conceive to be the privileges of the House, and the powers of the House to punish for a breach of those privileges. The first great power which it possesses is an inherent power of self-defence, analogous to the fundamental natural right which every man possesses of defending himself. It is in both cases merely defensive. The natural right results from man's relative situation in this state of existence. The duties which he owes to his God, his neighbor, and himself, beget, rather let me say, impose on him this power; nay, the obligation of self-defence is necessary to a complete discharge of those great duties. In like manner, every article in your Constitution which confides a trust or imposes an obligation to perform for the good of the people acts of legislation, creates and gives this power to enable you to perform those acts, and

discharge, with due faith, the high trust which has been confided to you; and as, in the exercise of the natural right, a man is justified to make use of any force necessary to repel a personal injury; so, likewise, in the exercise of your inherent power, this House is justified to prevent or remove any annoyance within or without the walls of this House, which would tend to disturb its deliberations, or prevent it from the due performance of any of its duties. But, sir, you would not in either case be justified to make use of any force or restraint by way of punishment; for, in the case of the natural right, the use of any force, other than that which is necessary to overcome the offending force, would constitute an act of aggression. So, the exercise of force by the House, in the way of punishment, would not be justified by the inherent power, it being merely defensive. The exemption from arrest, and the privilege of not being questioned in any other place for any speech or debate in either House, constitute more of your privileges; for, although they tend to promote the immediate benefit of members in their individual capacity, they are yet the privileges of the House; and the House can, in both cases, punish any member who should waive his privilege without their consent.

These, sir, are, in my estimation, the legitimate and Constitutional privileges of Congress; and yet, sir, for the want of legal provision, they may with impunity be trampled on and set at defiance, not only by the defendant at your bar, but by any man in this great community. Is it correct, sir, to say that this inherent right extends beyond the limits which I have assigned it? That, by virtue of our election, we are politically amalgamated, and that the reception of an insult on the shores of the Atlantic would tremble along the sympathetic line, and agonize your feelings beyond the mountains? No, sir; I contend that out of the boundaries of this District we have no protection, no privilege, except those granted by the first article of the sixth section of the Constitution, other than the protection of other great and good men—that of virtue, and the privilege of convicting falsehood with truth, and confounding guilt by innocence. Mr. Speaker, behold the delicacy of our situation! A man arraigned at your bar for a most atrocious insult, and yet we have not the power to punish him. Although armed with plenary sovereignty, and the exclusive powers of legislation in all cases whatever in this District; although invested with authority to make all laws which may be necessary and proper to carry into execution all our powers, and to punish the breach of any of our privileges, yet we suffer these powers to slumber in criminal repose. As we pass along the streets, scorn may point the finger of contempt at us, defamations may teem from the press, arraigning the correctness of our conduct, and impeaching the purity of our intentions; nay, impudence and insolence may beard us at the very threshold of the great council of the nation, and without the provisions of law we cannot punish. Much has

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been said, sir, about State Legislatures, the judges of the United States, and State judges, possessing the power of punishing for contempt. I can speak with confidence in relation to this power in the State which I have the honor of representing. There, the Legislature, the judges, and even the justices of the peace, possess this power, not by arbitrary assumption, but by the provisions of the constitution and the principles of the common law, made of force in that State by an act of the colonial government, and which act is recognised and continued in force by a provision in the constitution of that State. In relation to the judges of the courts of the United States, we all know that they derive their power from an act of Congress which recognises the principles of the common law. And I think, upon inquiry, it will be ascertained that the Legislatures and judges of the several States possess this power by some provision in their laws or constitutions. Numerous precedents have been appealed to. I shall not suffer my mind, sir, to be governed, nay, influenced, by any precedents which, in my judgment, sanction error. It is, moreover, contended that, admitting there is no express provision in the Constitution which gives, without the aid of legislation, a power to punish in case of a breach of privilege, yet that this House, on account of the difficulty of annexing a punishment adequate to every breach of privilege, does possess a discretionary power *ex necessitate rei*. Mr. Speaker, it is no compliment to say that I would as lief trust this dangerous power in the possession of this honorable body as in any other known to our institutions; for in every case in which corruption has dared to approach you with its impurity, or raise its detestable glance to the elevation of your virtues, you have uniformly repelled it with indignant contempt. But, sir, I am unwilling to trust this power with any man or body of men. The time may come when our political virtue may have passed away; when corruption may have sapped the foundation of our boasted institutions; when the independence of this House may be lost, and seen bowing, with sycophantic smiles, at the shrine of Executive favor; nay, sir, when the very exertion of the physical force of the people will but operate to their own destruction. It is on these accounts that I wish all our proceedings may be sanctioned by law and Constitution. I feel a desire that gentlemen who advocate this power would pause a moment, and analyze its character. It is plenary sovereignty, armed with powers legislative, judicial, and executive. It is a power capable of passing laws *ex post facto*; of declaring that act criminal, *ex re nata*, which before was innocent. It is a power unknown and undefined, which lies dormant until, in a moment of angry feeling, it proclaims its laws, which are carried into execution by infuriated justice. Odi-ous tyranny! Most frightful despotism! More terrible than the laws of Caligula, or the rescript of the Roman Emperors.

Mr. Speaker, at the pedestal of your seat I swore that I would defend the Constitution of

my country. I will defend it, sir. But I sit here in a two-fold capacity—not only to defend the Constitution, but to protect the rights of the people; and as long as I have the honor of a seat on this floor, I will never sit in silence, and see their rights illegally invaded. In legal contemplation, the poorest man lies intrenched behind the rampart of laws; nay, clothed in the garb of plebeian humility, sits enthroned on the altar of liberty; and the power which can, without law, drag him from this sanctuary to punishment, destroys all idea of criminality, and makes him a sacrifice.

I tender my grateful acknowledgments to this House for the attention with which it has honored me.

When Mr. ERVIN concluded, on motion of Mr. HOLMES of Massachusetts, the House adjourned at past 4 o'clock, without having come to any decision on the question before them.

#### SATURDAY, January 10.

The SPEAKER laid before the House a letter, directed to the Congress of the United States, from a certain Carl Theodore Mohr, residing in Wal-lendorf, Germany, offering to come to America upon certain conditions, and to establish a manufactory of porcelain; which was ordered to lie on the table.

On motion of Mr. SERGEANT, the Committee of Ways and Means were instructed to inquire into the expediency of allowing a drawback upon refined sugar exported from the United States.

#### AMELIA ISLAND.

Mr. MIDDLETON, from the committee on so much of the Message of the President of the United States as relates to the illicit introduction of slaves from Amelia Island into the United States, made the following report:

The committee to whom was referred so much of the President's Message as relates to the illicit introduction of slaves from Amelia Island, having carefully taken the matter committed to them into consideration, respectfully report:

That having applied to the Department of State for information respecting the illicit introduction of slaves into the United States, they were referred by the Secretary of State to the documents transmitted to this House by the President's Message of the 15th December last, consisting of various extracts of papers on the files of the Departments of State, of the Treasury, and of the Navy, relative to the proceedings of certain persons who took possession of Amelia Island in the Summer of the past year, and also relative to a similar establishment previously made at Galveston near the mouth of the river Trinity.

Upon a full investigation of these papers, with a view to the subject committed to them, your committee are of opinion, that it is but too notorious, that numerous infractions of the law prohibiting the importation of slaves into the United States have been perpetrated with impunity upon our Southern frontier; and they are further of opinion, that similar infractions would have been repeated with increasing activity, without the timely interposition of the naval force under direction of the Executive of our Government. In the

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course of the investigation, your committee have found it difficult to keep separate the special matter given into their charge, from topics of a more general nature, which are necessarily interwoven therewith; they therefore crave the indulgence of the House, while they present some general views, connected with the subject, which have developed themselves in the prosecution of their inquiry.

It would appear from what had been collected from these papers, that numerous violations of our laws have been latterly committed by a combination of freebooters and smugglers of various nations, who located themselves in the first instance upon an uninhabited spot near the mouth of the river Trinity, within the jurisdictional limits of the United States, as claimed in virtue of the treaty of cession of Louisiana by France. This association of persons organized a system of plunder upon the high seas, directed chiefly against Spanish property, which consisted frequently of slaves from the coast of Africa; but their conduct appears not always to have been regulated by a strict regard to the national character of vessels falling into their hands, when specie or other very valuable articles formed part of the cargo. Their vessels generally sailed under a pretended Mexican flag, although it does not appear that the establishment of Galveston was sanctioned by or connected with any Government. The presumption, too, of any authority ever having been given for such an establishment, is strongly repelled as well by its piratical character, as by its itinerant nature; for the first position, at Galveston, was abandoned on or about the 5th of April last, for one near Matagorda, upon the Spanish territory; and at a later period this last was abandoned and a transfer made to Amelia Island, in East Florida; a post which had been previously seized by persons, who appear to have been equally unauthorized, and who were, at the time of the said transfer, upon the point, it is believed, of abandoning their enterprise, from the failure of resources, which they expected to have drawn from within our limits, in defiance of our laws. There exists, on the part of these sea-rovers, an organized system of daring enterprise, supported by force of arms; and it is only by a correspondent system of coercion that they can be met and constrained to respect the rights of property and the laws of nations. It is deeply to be regretted that practices of such a character, within our immediate neighborhood, and even within our jurisdictional limits, should have prevailed unchecked for so long a time; more especially, as one of their immediate consequences was to give occasion to the illicit introduction of slaves from the coast of Africa into these United States, and thus to revive a traffic repugnant to humanity and to all sound principles of policy, as well as severely punishable by the laws of the land.

By the 7th section of the act prohibiting the importation of slaves, passed in 1807, the President is fully authorized to employ the naval force to cruise on any part of the coast of the United States, or territories thereof, where he may judge attempts will be made to violate the provisions of that act, in order to seize and bring in for condemnation all vessels contravening its provisions, to be proceeded against according to law.

By the joint resolution of the Senate and House of Representatives of 15th January, 1811, and the act of the same date, the President is fully empowered to occupy any part or the whole of the territory lying east of the river Perdido, and south of the State of Georgia, in the event of an attempt to occupy the said territory,

or any part thereof by any foreign Government or Power; and, by the same resolution and act, he may employ any part of the Army and Navy of the United States, which he may deem necessary, for the purpose of taking possession and occupying the territory aforesaid, and in order to maintain therein the authority of the United States.

Among the avowed projects of the persons who have occupied Amelia Island, was that of making the conquest of East and West Florida, professedly for the purpose of establishing there an independent government; and the vacant lands in those provinces have been, from the origin of this undertaking down to the latest period, held out as lures to the cupidity of adventurers, and as resources for defraying the expenses of the expedition. The greater part of West Florida being in the actual possession of the United States, this project involved in it designs of direct hostility against them; and as the express object of the resolution and act of 15th January, 1811, was to authorize the President to prevent the province of East Florida from passing into the hands of any foreign Power, it became the obvious duty of the President to exercise the authority vested in him by that law. It does not appear that among these itinerant establishments of republics, and distributors of Florida lands, there is a single individual inhabitant of the country where the republic was to be constituted, and whose lands were to be thus bestowed; the project was, therefore, an attempt to occupy that territory by a foreign Power. Where the profession is in such direct opposition to the fact; where the venerable forms, by which a free people constitute a frame of government for themselves, are prostituted by a horde of foreign freebooters for purposes of plunder; if, under color of authority from any of the provinces contending for their independence, the Floridas, or either of them, had been permitted to pass into the hands of such a Power, the committee are persuaded it is quite unnecessary to point out to the discernment of the House the pernicious influence which such a destiny of the territories in question must have had upon the security, tranquillity, and commerce of this nation.

It is a matter of public notoriety, that two of the persons who have successively held the command at Amelia Island, whether authorized themselves by any Government or not, have issued commissions for privateers, as in the name of the Venezuelan and Mexican Governments, to vessels fitted out in the ports of the United States, and chiefly manned and officered by our own countrymen, for the purpose of capturing the property of nations with which the United States are at peace. One of the objects of the occupation of Amelia Island, it appears, was to possess a convenient resort for privateers of this description, equally reprobated by the laws of nations, which recognise them only under the denomination of pirates, and by several of the treaties of the United States with different European Powers, which expressly denominate them as such.\* It was against the subjects of Spain, one of the Powers with which the United States have entered

\* See the Treaty of Peace with France, 1778, art. 21st, United States Laws, vol. 1, p. 88; with the Netherlands, 1782, art. 19, vol. 1, p. 162; with Sweden, 1783, art. 23, vol. 1, p. 190; with Great Britain, 1794, art. 21, vol. 1, p. 218; with Prussia, 1795, art. 20, vol. 1, p. 238, and 1797, art. 20, p. 256; with Spain, 1795, art. 14, vol. 1, p. 270.

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into stipulations prohibiting their citizens from taking any commission from any Power with which she may be at war for arming any ships to act as privateers, that these vessels have been commissioned to cruise; though, as the committee have observed, no flag, not even that of our own country, has proved a protection from them. The immediate tendency of suffering such armaments, in defence of our laws, would have been to embroil the United States with all the nations whose commerce with our country was suffering under these depredations; and, if not checked by all the means in the power of the Government, would have authorized claims from the subjects of foreign Governments for indemnities, at the expense of this nation, for captures by our people, in vessels fitted out in our ports, and, as could not fail of being alleged, countenanced by the very neglect of the necessary means for suppressing them. The possession of Amelia Island as a port of refuge for such privateers, and of illicit traffic in the United States of their prizes, which were frequently, as before stated, slave ships from Africa, was a powerful encouragement and temptation to multiply these violations of our laws, and made it the duty of the Government to use all the means in its power to restore the security of our own commerce, and of that of friendly nations upon our coasts, which could in no other way more effectually be done than by taking from this piratical and smuggling combination their place of refuge.

In order, therefore, to give full effect to the intentions of the Legislature, and in pursuance of the provisions of the above recited resolution and acts, it became necessary (as it appears to your committee) to suppress all establishments of the hostile nature of those above described, made in our vicinity, the objects of which appear to have been the occupation of the Floridas, the spoliation of peaceful commerce upon and near our coasts by piratical privateers, the clandestine importation of goods, and the illicit introduction of slaves within our limits. Such establishments, if suffered to subsist and strengthen, would probably have rendered nugatory all provisions made by law for the exclusion of prohibited persons. The course pursued on this occasion will strongly mark the feelings and intentions of our Government upon the great question of the slave trade, which is so justly considered by most civilized nations as repugnant to justice and humanity, and which, in our particular case, is not less so to all the dictates of a sound policy.

Your committee anticipate beneficial results from the adoption of these measures by the Executive, in the promotion of the security of our Southern frontier and its neighboring seas, and in the diminution of the evasions, latterly so frequent, of our revenue and prohibitory laws. The experience of ten years has, however, evinced the necessity of some new regulations being adopted in order effectually to put a stop to the farther introduction of slaves into the United States. In the act of Congress prohibiting this importation, the policy of giving the whole forfeiture of vessel and goods to the United States, and no part thereof to the informer, may justly be doubted. This is an oversight which should be remedied. The act does indeed give a part of the personal penalties to the informer, but these penalties are generally only nominal. As the persons engaged in such traffic are usually poor, the omission of the States to pass acts to meet the act of Congress, and to establish regulations in aid of the same, can only be remedied by Congress legislating

directly on the subject themselves, as it is clearly within the scope of their Constitutional powers to do. For these purposes your committee beg leave respectfully herewith to report a bill.

Mr. MIDDLETON then reported a bill in addition to the former acts prohibiting the introduction of slaves into the United States; and the bill was twice read, and committed.

The report was not read, but ordered to be printed.

#### COLONEL ANDERSON'S CASE.

The SPEAKER laid before the House the following letter and enclosure, yesterday received by him from John Anderson:

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SIR: Unwilling to be deprived, by any circumstances whatever, of an opportunity to explain to the honorable House of Representatives the motives which have actuated my recent conduct, I beg leave to announce my wish to waive, with that object, any Constitutional or other question which may have arisen.

I enclose a letter which I had the honor this morning to prepare for the consideration of the House.

I am, sir, with profound respect,

JOHN ANDERSON.

HON. HENRY CLAY,

*Speaker of the House of Reps.*

WASHINGTON, Jan. 9, 1818.

SIR: Considering the honorable body before whose bar I am shortly to appear as the guardian of those rights which, as a citizen, I possess, and relying upon the generous feelings of its members, I have been induced to forego the privilege extended to me of employing counsel, lest it might be supposed that I was inclined to shelter myself by legal exceptions. As the novelty of my situation may, however, tend to surround me with embarrassment, it is my wish, should the rule of proceeding adopted by the House not oppose the course, that such questions as I have reduced to writing, be propounded to the respective witnesses by the Clerk, and that he should read the explanation and apology which I have to make.

JOHN ANDERSON.

HON. HENRY CLAY,

*Speaker of the House of Reps.*

The letter having been read—

Mr. FORSYTH rose to move that these resolutions be laid on the table. We owe it, said Mr. F., to our own dignity, to the dignity of the members of this House, that the investigation of the offence of John Anderson should proceed. The inquiry which has arisen into the extent of the privileges and powers of the House may be resumed afterwards, and decided. But let us see, said he, what will be the consequence of our proceeding in the present course, and being diverted by this inquiry from the examination of the accused. A person offers a bribe to a member of this House, the House orders the offender into custody—the letter of the accused, which is the foundation and the evidence of the charge, refers to certain officers of the Government, and members of this House, as prepared to support the claims to which he alludes. Instead of calling this person before us, and seeing how far we can substantiate the charge, the proceeding is stopped, by the reso-

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lutions before us, and the protracted debate which follows. May not this course, said Mr. F., put a strange construction on the matter? Malicious persons may say, and there are many such, it is the intention of the House to stifle a dangerous inquiry, not to settle an important Constitutional question. To avoid any possibility of such an imputation, let us, said Mr. F., suspend the consideration of these resolutions, and proceed in the examination of the accused.

Mr. PITKIN observed, that the object of the resolutions was, to turn the accused over to the Executive officers; if they pass, the United States Attorney would be directed to prosecute him. But why not, before this, said Mr. P., bring the accused before us, and hear his explanation on the subject? An additional reason for this course, Mr. P. thought, was the request of the accused to come before the House. After examining and hearing him, Mr. P. said, the House could decide whether they ought to pass the resolutions, and turn him over to another tribunal.

Mr. SPENCER said, the remarks of Mr. PITKIN applied only to the second resolution, and not to the first; and he hoped the motion would not be agreed to. He did not, he said, possess such a feeling of dignity as to do, or persevere in anything which he thought improper; and in the conscientious discharge of his duty he should never look beyond the walls of the House for his motives. In this case, however, said he, malice itself could not impeach the motives of the House; for a proposition to direct the officers of the United States to proceed against the accused, could not, by any ingenuity, be construed into a disposition to stifle the inquiry. He therefore hoped the House would proceed and determine the abstract principle, without any reference to the merits of the case, and without considering whether John Anderson can make an acceptable apology or not.

Mr. HARRISON was in favor of laying the resolutions on the table, and proceeding immediately to the examination of the accused. It was not to be supposed that, because he was one of those referred to by John Anderson, as willing to support his claims, that he felt the slightest wish to avoid an examination of that individual. Mr. H. said, so far from disclaiming a readiness to support the claims of which Anderson is the agent, he felt bound in the strongest manner to aid them. Independently of a conviction of their justice, Mr. H. said, those claims came from a people and a Territory for which he felt a peculiar interest. He was therefore unconscious of any appearance of impropriety in being included among those whom the accused named as disposed to aid in his suit before the House.

Mr. FORSYTH replied to Mr. SPENCER, that all must know the extent of human malignity. Every one acquainted with our political history must, he said, be sensible how far the motives and the conduct of this House may be questioned and misrepresented; and he knew that the ingenuity of malice was such that it could, and probably would, impute false and impure motives

to the course which the House was pursuing; and his object was, by going at once into an investigation of the matter, to leave no pretext whatever for a misconstruction of the conduct of the House. The gentleman admitted there was no law under which the person accused could be indicted; to refer him to the Attorney General or District Attorney then was idle; we know no investigation can take place.

Mr. HOPKINSON was unfriendly to the motion to lay the resolutions on the table. After all, it was a mere question of order in the proceeding; but, he said, as the question had already been discussed much at large, and as it must be decided in the end, he thought it was better to do so now, after having gone so far into it, than afterwards to have all that has been done to go over again. At any rate, Mr. H. hoped the House would not abandon the question without bringing it to a decision. A strong reason for prosecuting the inquiry now before the House was, Mr. H. said, that a majority of the gentlemen who delivered their sentiments were on one side; and those on the other side, he said, ought to have an opportunity of submitting also their views of it. He had no idea that the House wished to shrink from an investigation of the latter, whatever appearance it might have, or might be given to it.

Mr. POINDESTER said, that although he denied the power of the House to punish the individual who had been arrested under the warrant of the Speaker, and whose case was under consideration, he should vote to lay the resolutions offered by Mr. SPENCER on the table. The letter addressed by the accused to the Speaker, which had been read for the information of the House, proposes, on his part, submission to the authority of the House, with a view to explanations and apologies, which he says he is prepared to make. I am willing, said Mr. P., to afford him this opportunity. If the House should be satisfied, after hearing the excuse which may be made by the accused, for his extraordinary conduct, or the apology which he may offer in mitigation of the offence, we shall be enabled to waive for the present a decision of the great Constitutional question which has been raised on this occasion, and which is calculated to embarrass the proceedings, and occupy much of the time of this body. With a hope that this might be the result of the proposed explanation, and that suitable provision may be made by law for similar cases, should they hereafter occur, and thereby remove the embarrassment which we experience in the case now under consideration, Mr. P. said, he should support the motion to lay the resolutions on the table.

Mr. DESHA was in favor of laying the resolutions on the table. John Anderson prayed to be heard; and if we find, said Mr. D., that he can exonerate himself from the offence, I wish it to be done; because this debate may continue yet many days, all which time the accused must remain in custody, if not heard before. After his examination the discussion can be resumed, and the question settled.



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Mr. RICH inquired whether the accused had expressed a wish to be heard at once. If so, Mr. R. was willing to lay the resolutions on the table, and hear him; but, if not, he was opposed to the motion.

Mr. BEECHER remarked, that one reason with him for not wishing to lay the resolutions on the table was, that he had no idea of receiving a petition from a man who was held in custody. Mr. B. was not disposed to hold the accused in custody a moment longer than he had the right; but he was in favor of first trying if the House possess that right or not. I am not willing, said Mr. B., to get rid of this question by permitting the party to come in here, and give evidence against himself, or by allowing him to come forward and admit our jurisdiction in the case.

Mr. PINDALL made a few remarks in coincidence with those of Mr. POINDEXTER, of which he expressed his approbation.

The motion to lay the resolutions on the table was decided in the negative—ayes about 30; and the question then recurred on the adoption of the resolutions.

Mr. POINDEXTER, of Mississippi, then rose. He said that the importance of the Constitutional question involved in the question under consideration, he trusted would afford him a satisfactory apology to the House for the time which he might occupy in delivering his opinions in relation to it. He regretted that the investigation which he had been enabled to give this case did not justify him in proceeding to pass judgment on the accused (John Anderson) for the offensive and highly indecorous letter which he had addressed to an honorable member of this body. Sir, said Mr. P., no gentleman can feel with more sensibility than myself the nefarious and insulting offer which was made by this man to the honorable member from North Carolina, (Mr. WILLIAMS,) and, through him, the indignity offered to this House, by an attempt so corrupt in its inception, and so futile in its result. Such criminal and unwarrantable conduct deserves the severest punishment which the laws of the country would sanction, and the reprobation which it would doubtless receive of every good man in society. But, said Mr. P., I am called on, in the character of a judge, to determine the nature of this offence, to apply the law which governs it, and to estimate the degree of punishment which its magnitude demands. In the discharge of these high and responsible duties, it is incumbent on me to examine, with care and attention, the powers which I am to exercise, and the sources from which my authority is derived. If I am satisfied on these points, I shall feel justified in taking cognizance of the case, and, by applying the law to the evidence, render such a decision as shall preserve the Constitutional privileges of the honorable body to which I belong, without in any manner violating the sacred rights secured to the meanest citizen, and of which he cannot be deprived, so long as our political institutions shall remain unimpaired. But, sir, while I am disposed to guard with becoming zeal our own privileges,

and to give a liberal construction to the Constitution, in relation to the power which we may possess to suppress every attempt to disturb our legislative proceedings, I am bound to respect the rights of the people, and to protect them also from oppression, in the exercise on our part of arbitrary, undefined discretion. I admit the principle which has been contended for by some gentlemen, in the course of the debate, that every tribunal, whether it be legislative or judicial, possesses inherently and of necessity the power to protect itself from interruption in the discharge of the duties assigned to it by the Constitution. Without this authority, there would be an end of legislation, and courts of justice would become contemptible and ridiculous. If one or more individuals, within the walls of the House, while we are in session, deliberating on the important subjects which are submitted to us, as one branch of the National Legislature, should, by unusual and unnecessary noises, or by insulting expressions or conduct, interrupt the calm, dignified, and deliberate proceedings of this body, I should consider the removal of such disorderly persons, and their subsequent confinement, so as to prevent a repetition of the offence, a right necessarily appertaining to this and every other deliberative assembly. So if by the firing of guns, beating drums, throwing stones at the windows, or any other violent means, we are disturbed while in the exercise of our Constitutional functions, the same principle of self-protection which applies to every independent department of the Government, and which is inseparable from its very existence, would justify the arrest and confinement of the offenders. I will apply the same principle to every act which disables a member, so that he is rendered incapable of discharging his ordinary duties in the House, as a Representative of a portion of the American people. Taking these premises as the reasonable limitation of the separate authority of either House of Congress to punish contempts, permit me to ask gentlemen who would extend that authority to cases occurring in the recess of the Legislature, whether they would consider an unusual noise in the gallery, or the firing of guns, or other tumultuous conduct around the building in which we sit, after an adjournment, a contempt of the House, and, on the succeeding day, proceed to arrest the persons concerned, and punish them by imprisonment? I cannot believe that any honorable gentleman would push this doctrine to such extremities; and, to my mind, the conclusion is irresistible, that no act, however offensive, can be construed into a contempt of this body, which does not directly interfere with and disturb its deliberations while in session, or disable some one of its members, so that he cannot discharge the trust reposed in him by his constituents. Suppose, sir, a challenge should be delivered to a member of this House, at his lodgings—suppose it should even menace personal chastisement—and, in the event of a refusal on the part of the member to meet his antagonist, he should be published to the world as a man destitute of honor, of integrity, and of personal courage; would you

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send your Sergeant-at-Arms with a warrant, and sentence the citizen who had thus insulted the feelings of a Representative to the confines of a loathsome jail? Or would it not comport more with our dignity, and a proper respect for the laws of our country, to refer the subject to the ordinary courts of justice, whose province it is to try and punish offenders of this description? To me it appears evident that the latter alternative would invariably be adopted. For, although the feelings of the member might be grossly insulted, the business of the House would not thereby be disturbed or impeded. In considering the doctrine of contempts, it may be useful to inquire what would amount to a contempt of a judge while in the discharge of his judicial duties. I presume it will not be contended, that, in this particular, we have a power paramount to the courts established under the Constitution. If a man in open court pronounce the judge on the bench to be a scoundrel, or impute to him partiality in his decisions, or use any other insulting language, he is guilty of a contempt, and the court may immediately proceed to fine and imprison him. Again, if a man in open court places on the bench a libellous or insulting letter, offering a bribe, or charging the judge with partiality in his official character, or interrupts the order and decorum so essential to a correct administration of justice, he would be guilty of a contempt, and liable to punishment in a summary way. But the same conduct in the recess of the court would not be considered a contempt, according to any principle or practice with which I am acquainted. The publication of a libel on the character of a judge, or a charge of partiality in his decisions, addressed to him in a private letter, at a time when he is not in the discharge of his judicial duties, are offences punishable only by indictment, in the same manner as if the libellous matter had been written or published of a private person. I apply the same rule to the Representatives of the people, and would adopt the same remedies, under similar circumstances. What then, Mr. Speaker, is the fact on which we are to adjudge John Anderson guilty of a contempt of this House? It is single, and admits of no ambiguity. This man, during an adjournment of the House, and at the private room of the honorable gentleman from North Carolina, handed to him a letter highly criminal and insulting, containing an offer of a bribe for services to be performed in his legislative capacity. I ask, sir, if this act interferes with or disturbs our deliberations on this floor? Certainly not. It was a vain, foolish, and wicked effort to mislead the judgment of an honorable gentleman, by pecuniary temptations and rewards. It was spurned with indignation, and the purity of this body remains uncontaminated.

The crime which this man has committed ought not to pass unpunished; but to me it does not appear to fall within the definition of a contempt, and, therefore, cannot form an exception to any other crime of which the courts of justice alone have jurisdiction. But it is said that the letter which constitutes the basis of these pro-

ceedings is a breach of privilege; and reference has been had to parliamentary law in support of this opinion. Sir, I beg gentlemen to reflect for a moment, before they recognise all the absurdities which are to be found in precedents drawn from the British House of Commons. Besides the catalogue of exemptions so emphatically exposed by the honorable gentleman from Virginia, (Mr. BARBOUR,) many others, equally repugnant to the principles of a free constitution, are to be found in the records of the House of Commons; extending, under the vague, undefined, and unlimited doctrine of privilege, protection, from arrests in civil cases, to the wife, the servants, and other domestics of a member. Their goods cannot be seized in execution, and even on a judgment rendered before the commencement of the privilege. Nor are they bound to obey a summons to give evidence in a court of justice. A British subject was, in a case which I find reported, imprisoned five days for striking the servant of a member of Parliament. Are gentlemen prepared to adopt these exclusive privileges, and apply them as they may find it necessary to the representatives of a free people? I cannot believe that any honorable member within these walls would desire to stand in a circle of exemptions and immunities so abhorrent to every principle of free government. What, sir! will it be contended that not only the person, the feelings, and the purity, if you please, of a Representative, shall be held sacred, but that his servant also is entitled to more than ordinary respect from the multitude? and by the strong arm of power, this House will inflict, at its own discretion, suitable punishment on him who dares to infringe the rights of this privileged class! The master, servants, and retinue, all come within the wide scope of the broad jurisdiction exercised by the British House of Commons in cases of this nature. But we are told that reason and common sense are to govern our decisions, and not the law of Parliament, *in extenso*. I should be thankful to any gentleman who would designate, with precision, the point at which we are to stop in reference to British precedents; if we admit their application in one case, why deny it in another? There the law of privilege is undefined, and so, we are informed, it is here, and so it must remain, because, say its advocates, it would be impossible to enumerate all the cases which might require the interposition of this House, in the protection of its members. If, then, the law in both countries is unbounded in its extent and application, the practice must correspond in all its ramifications, or be altogether disregarded. We must build up a system of our own, founded on reason and common sense. Sir, these favorite expressions may mean one thing to-day and another to-morrow; they mean anything to suit the necessity of the case to which they are applied. I deny, in their whole extent, the validity of parliamentary precedents; I discard them from my mind in deliberating on the question now before the House; I take as the rule of my conduct the Constitution and laws of my own country, and the construc-

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tions given to them since the establishment of this Government. Having endeavored to show, I trust satisfactorily, that the act of writing and delivering a libellous or insulting letter to a judge in the recess of a court, or to a member of either House of Congress, when not in session, could not be deemed a contempt, or a breach of privilege, I shall proceed to investigate the authority of this House to arraign, try, and punish, an individual for a crime which cannot be distinguished from the general class of the indictable offences cognizable in the ordinary courts of judicature. From whence, sir, do we derive the power to proceed in the case under consideration? Are we to look for it in the code of common law, which has been called by an honorable gentleman from Virginia (Mr. MERCER) the bulwark of our liberties; or is it to be found in the statutes passed by Congress; or in some provision of the Constitution, either express or implied? With regard to the common law, on the excellence of which that honorable gentleman has so eloquently descanted, I totally deny its existence in the United States, as a nation. The sages and patriots who laid the foundation of this Government, have carefully avoided its adoption; and the courts have never assumed jurisdiction, more especially in criminal cases, which is not expressly given in the Constitution or the laws made in pursuance thereof.

On this subject I hope I shall be pardoned, for referring to the opinion of a judge, than whom none more enlightened has sat on the bench of the Supreme Court of the Union; (I allude to the late Judge Chase.) Mr. P. then stated the substance of the case as follows: Robert Warrall was indicted at common law, in the district court of Pennsylvania, for having written a letter to Tench Coxe, Commissioner of the Revenue, making proposition for a contract for the building of a light-house, and offering to Mr. Coxe seven hundred pounds, if he accepted the terms proposed. The jury returned a verdict of guilty, and a motion was made in arrest of judgment. On this motion Judge Chase delivered an opinion, from which I will proceed to read one or two sentences, as applying to the point in discussion. "This is an offence highly injurious to morals, and deserving the severest punishment; but, as it is an indictment at common law, I dismiss at once everything which has been said about the Constitution and laws of the United States. In this country every man sustains a two-fold political capacity; one in relation to the State, and another in relation to the United States. In relation to the State, he is subject to various municipal regulations, founded upon the State constitution and policy, which do not affect him in his relation to the United States. For the Constitution of the Union is the source of all the jurisdiction of the National Government; so that the Departments of the Government can never assume any power that is not expressly granted by that instrument, nor exercise a power in any other manner than is there prescribed." The strict analogy between

that case and the one now under consideration, must be obvious to every gentleman; and the principle of the decision is to my mind conclusive and unanswerable. It has, on several occasions, received the sanction of the Supreme Court, and may now be considered as a settled law. I imagine the gentleman from Virginia would find it a difficult task to tell us what that common law is, on which he has pronounced his eloquent eulogium. Is it, sir, the common law of New Hampshire, of Massachusetts, of New York, of Virginia, of Kentucky; or is it that incongruous system of common law of England, which is fraught with so many absurdities? The most valuable principles of which are drawn from the civil law, with the single exception of the right of trial by jury. Will the gentleman have the goodness to put his finger on the code he so highly recommends? I presume the attempt to do so would lead him into perplexities, from which he would be glad to escape by yielding the pursuit. The United States can have no common law as a nation; and this arises from the limitations within which the National Government is confined by the written constitution which put it into existence. If then we cannot resort to that widely diffused and fruitful source of power, to justify the proceeding against the accused in this case—and for one I protest against the establishment of a precedent, so dangerous in its tendency, and so uncertain in its extent and application—let us examine the statutes of our own country, and ascertain whether they contain any provision which confers the right claimed by the advocates of this measure.

The simple declaration, that the statute can be found which, in the remotest degree, gives jurisdiction to either branch of the National Legislature over any *crime*, whatever may be its dignity, (the case of impeachment excepted,) is sufficient to put this part of the subject at rest. No, sir; our laws have not been violated; nor is there any clause in the Constitution which either expressly, or by fair implication, contains the grant of power which the House is called upon to assume. What are the privileges secured to us in that instrument?

"Article 3, section 6. They (Senators and Representatives) shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest, during their attendance at the session of their respective Houses, and in going to and returning from the same; and, for any speech or debate in either House, they shall not be questioned in any other place."

Are gentlemen prepared to overleap the barriers of the Constitution, and take shelter under the practice of the British House of Commons? To adopt the law of privilege and prerogative, so hateful to the principles and feelings of a free people? To what purpose are the powers of Congress limited, by a solemn written charter, if those thus intended to be restrained can at pleasure transcend the limits prescribed? Sir, I fear the precedent which we are about to establish in this case, under the influence of excited sensibility, will, in my humble conception, prostrate the

very salutary guards placed by the wisdom of our fathers around the temple of liberty. The cause of John Anderson, humbled and degraded as he has rendered himself by his own criminal conduct, is the cause of my constituents, and of every man in the nation. The encroachments of power never yield; they must be resisted in their inception, or, by slow degrees, they steal upon the rights of the citizen, until resistance will be vain and nugatory. No man in this country can be punished, who has not infringed some known law, recognised and promulgated prior to the offence; nor in any other manner than according to forms pointed out in the Constitution, or the laws made in pursuance thereof. A departure from this rule leads directly to the very door of despotism. The will of the despot decides both the law and the measure of punishment, guided only by his own discretion, and what may appear to be the necessity of the case. But I trust, sir, we yet feel respect enough for personal liberty to acknowledge the supremacy of the laws, and where they have not been violated, we are bound to acquit. An act, innocent at the time it is committed, can never be made criminal by subsequent legislation. As well might you print the statutes in Greek, and hang them up so high that they cannot be read, as to punish an individual who has been guilty of no crime which contravenes the existing penal laws of the country. Yes, sir, I should consider my rights as well secured in the one case as in the other, and I would not give one cent to choose between them. But, to sustain the power of the House on this occasion, we are referred to the common law, to parliamentary law, and to the practice of Congress on similar occasions. Having disposed of the two first of these auxiliaries, as altogether inapplicable to and inconsistent with the principles of a free Government, I beg the indulgence of the House, while I retrospect on the precedents which have arisen since the adoption of the Federal Constitution. The case of Randall and Whitney is the only instance where a power analogous to that now claimed, has been exercised by the House of Representatives. That case was decided under very great excitement, and some of the most enlightened statesmen, then in Congress, voted against the measure. Since that period there is not, within my knowledge, a single case which recognises the authority of the House to punish offences which do not interfere with, or disturb, its deliberations. Mr. Randolph, of Va., was insulted, and even assaulted, in the theatre, at Philadelphia, for a speech which he had delivered on a proposition to reduce the Military Establishment of the United States. The outrage having been committed by a marine officer, holding his commission at the will of the President, and being a direct violation of one of the Constitutional privileges of a member of either House of Congress, Mr. Randolph made a written communication to Mr. Adams, then President of the United States, on the subject. The circumstance came before the House of Representatives, through an Executive Message; and, yet, they declined inflicting any

punishment on the offender. In this case, the privilege violated was among those enumerated in the Constitution, and the attention of the House had been invited to it by the Chief Magistrate, as a fit subject for their animadversion. Notwithstanding these facts, the House, after much discussion, did not even *reprimand* the person charged with this infraction of their privileges.

The newspapers, in every part of the Union, bestow upon the two Houses of Congress, collectively and individually, the most unlimited abuse, menacing them with public indignation, for votes, either given, or to be given, on questions of great national importance; and yet, sir, we do not send the Sergeant-at-Arms to arrest and bring the editors before us to answer for these attempts to corrupt the fountain of legislation. And is it not equally culpable to induce a member to vote contrary to his own judgment by threats, as it would be to produce the same result by promises of reward and favor? The effect on public justice and morality is the same in either case, and it is against the evil consequences of such attempts which we are to guard. While on this subject, permit me, sir, to mention a case which must be within the recollection of many gentlemen on this floor. During the discussion which took place in the Senate on the renewal of the charter of the old Bank of the United States, the editor of a newspaper in Baltimore, whose name I do not distinctly remember, charged an honorable member of that body, now a citizen of Kentucky, with having received extraordinary accommodations at that bank, as a consideration for the vote which he had pledged himself to give in favor of a renewal of the charter. A gentleman from Georgia, then a member of the Senate, and now at the head of the Treasury Department, animadverted, with great force, on the unwarrantable conduct of the editor, who was, he said, at that time, in the gallery of the Senate, where he could not be without the invitation of a Senator. It is impossible to conceive of a more outrageous attack on the feelings and integrity of a member of any legislative body than the one to which I have referred. And, although the individual who made it was at that time within the walls of the House, the Senate, who were assuredly not ignorant of its powers, nor insensible to the insult offered to one of its members, took no step whatever with a view to the punishment of the editor; but, to show their indignation at a calumny so base and unfounded, they seized the first opportunity which presented itself, of electing the honorable member who had been thus calumniated to the Chair of the Senate. I would ask if it be not even more criminal to charge a Representative or Senator with having received a bribe for an important vote, than to offer a reward for extra services, in relation to the claims of private individuals? I do not pretend to justify the one, nor would I extenuate the other; but, if the purity of this body is to be preserved by its powers to punish every attempt on the integrity of its members, it ought to be ex-

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tended from Louisiana to Massachusetts, and no vile printer who should dare to attribute an improper motive, or hold out inducements, to a member of this House, which might in any manner control his judgment, should go unpunished, so long as we can afford a Sergeant-at-Arms to arrest and bring him to the bar of the House.

Finding a variety of conflicting precedents, in relation to the practice of Congress, in this particular, I shall not feel myself bound to respect them on either side, but shall consider this as a case of the first impression. I will not consent to be governed by the laws and usages of Great Britain or of any other country, on a question touching the liberty of the citizen. I look into the Constitution and statute book of my own country for a definition of my rights, and those of the community at large. If the accused in this instance has been guilty of a crime, and that he has I cannot doubt, he is entitled to a fair and impartial trial by jury. By a reference to the sixth article of the amendments to the Constitution of the United States, we find "that in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; and to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence." Are we about to deprive this unfortunate man of these sacred rights; to immolate them on the altar of Congressional *privileges*, and thereby establish a precedent which may drag to the bar of some future Congress the most respectable citizen in the Union, who may become offensive to one of its members? Is there no other rights guaranteed to the people of the United States which interdict to this House the power to proceed in this case? "No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall he be compelled in any criminal case to be witness against himself." Is there any indictment, or any presentment of a grand jury against the accused in this case? most certainly not. Will he not, if tried and punished by this House, be liable to an indictment or presentment of the grand jury of this District, and if found guilty to the like punishment, as if these extra judicial proceedings had not been taken? I imagine it will not be pretended that he could plead his conviction here, in bar of any subsequent prosecution. You exhibit to the world the solemn mockery of a judicial tribunal, possessing criminal jurisdiction, consisting of one hundred and seventy members. You bring to the bar of the House this poor man, John Anderson, who has offended

against what you are pleased to call your *privileges*. He is compelled to answer such questions as the Speaker may ask him; "to be witness against himself." He is deprived of the right of trial by jury, and may be prosecuted and punished a second time for the same offence. And, in addition to all this, when you are asked to designate the law which the accused has violated, you refer him to the common law of England; to the law of Parliament, under the head of *privileges*; and, for your power, to reason and common sense. Sir, I have often heard, in courts of justice, the doctrine advanced, that ignorance of the law is no excuse for him who offends against its provisions; and the maxim is a salutary one, for it is the duty of every man to know the laws of his country; but we, in our wisdom, go one step farther, and require a man to answer for the violation of a law deposited in the bosoms of one hundred and seventy judges, and to receive such punishment as may be thought necessary to preserve the dignity and independence of those by whom the sentence is pronounced. But we have been told by an honorable gentleman from Virginia, (Mr. TUCKER,) that we possess all the powers necessary and proper for carrying into effect those expressly delegated in the Constitution, and that it is a power adherent in every legislative body to punish a breach of privilege. On the subject of privilege I have already delivered my sentiments; I cannot pass the limits of the Constitution. As to incidental or inherent powers, they seem to me to be only such as are necessarily attached to some independent substantive powers of legislation, enumerated in the Constitution. Thus the power to send for persons and papers, is incidental to the power of originating impeachment. And the same principle will apply as to all the subordinate regulations essential to carry into operation every specified grant of power. But a new substantive power of legislation, not specified in the Constitution, cannot be exercised as an auxiliary to one which is specified—for example, the power to declare the punishment of treason would not authorize the establishment of a Supreme Court, and such inferior courts as the situation of the country might require; and yet it must be admitted that, to prescribe the punishment of treason, without these courts, to carry the system into operation, would be altogether ineffectual. But to establish judicial tribunals, is not a power subordinate to, but must necessarily be independent of, any other grant of power, and therefore could not be considered as incidental to any other branch of legislation, however they might be connected in their practical operation. I object also to the exercise of implied powers in a case of a criminal nature. In such a case the power ought to be particularly conferred, so as to have no doubt as to its validity and extent. But, Mr. Speaker, that article of the Constitution which gives to Congress power to "make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in

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'the Government of the United States, or in any 'department or office thereof," refers in express terms to legislation: "To make all laws which shall be necessary and proper." It gives no inherent power to either branch of the National Government, but enables the Legislature to make such laws as may be requisite to give effect to the powers delegated. In the preceding clause Congress is vested with ample authority to exercise exclusive legislation in all cases whatever in this District, not exceeding ten miles square. Have we then, sir, fulfilled the trust reposed in us, by making the necessary laws to protect the members of this body from insult, bribery, and corruption within this District, over which we possess such unlimited power? Sir, we have not; and this is the more to be lamented, because the practice of the two Houses, with respect to privileges and contempts, ought to be uniform; it ought to be regulated by law, that neither should, on any occasion, under the sudden impulse of feeling, exercise an arbitrary discretion, inconsistent with the right, the security, and property of the citizen. The nature of the punishment ought to be defined; for, although we claim the right to imprison, it is not pretended that we can inflict a fine, which is unquestionably a lower grade of punishment, and is often inflicted in cases where imprisonment is forbidden. But it has been intimated by some gentlemen who have participated in this debate, that the clauses of the Constitution to which I have referred do not give to Congress the power to legislate on the subjects of bribery and corruption and the privileges of its members. Sir, permit me to refer those gentlemen to the opinions of men, celebrated for their exalted virtues and talents, relative to the power given to Congress over the ten miles square. These opinions were expressed in the Convention of Virginia, assembled to deliberate on this Constitution. The celebrated Patrick Henry, whose memoirs were read with so much pleasure by his countrymen, inveighed against this unlimited power of legislation, and deprecated its consequences at some future period. He was answered by Mr. Madison, the late Chief Magistrate of the United States, and Judge Pendleton, who was an ornament to the bench of the Supreme Court of Virginia, that "this clause does not give 'Congress power to impede the operation of any 'part of the Constitution, or to make any regulation that may affect the interest of the citizens 'of the Union at large. But it gives them power 'over the local police of the place, so as to be secured from any interruption in their proceedings. What then is the power? It is that 'Congress shall exclusively legislate there, in 'order to preserve the police of the place, and 'their own personal independence; that they 'may not be overawed or insulted."

This is a fair exposition of the power, given by the founders of the Constitution. We may pass all laws necessary and proper for carrying into effect our delegated powers; we may exercise exclusive legislation over this District, to regulate its police, and protect ourselves from being over-

awed or insulted; but until these laws shall be enacted I deny the inherent power of this House to arraign and punish a citizen for a supposed breach of the privilege. And while, sir, I shall ever cherish a proper respect for the dignity and the legitimate privileges of this honorable body, I hold still more sacred the Constitutional rights of the citizen, and shall therefore vote to discharge John Anderson from the custody of the Sergeant-at-Arms.

Mr. HOLMES, of Massachusetts, said the question had been yesterday triumphantly put by his honorable friend from New York, (Mr. SPENCER,) Are we a jury? I, said Mr. H., readily answer no. We are a legislative body, representing eight millions of citizens—a body exercising as important acts of sovereignty as can be exercised, except by the Sovereign of Heaven; and the single question is, can this legislative body protect and defend itself from insult and abuse? If, said Mr. H., a judicial court is treated contemptuously, it seems agreed that the offender may be punished. Should a court of the United States be created by statute, without the power to punish contempts being specially granted, no one will deny that this power is incident to its Constitution. There are courts in the United States which constantly exercise these powers without any special grant. Should a judge of one of these courts, in going from the courthouse to his lodgings, be met and horsewhipped for something relating to his duty as a judge, will it be contended that this act would not be punished as a contempt? Why, then, sir, said Mr. H., is this power incident to a judicial which is denied to a legislative tribunal? If protection and security be essential to the one, they are peculiarly so for the other. I do not insist so much on the common law's giving this right. It is a right essential and inherent in every legislative body, that it shall protect itself. If no precedent existed, if the Constitution, the rules and the laws were silent, I would contend for this right of self-preservation. The framers of the Constitution were acquainted with legislative assemblies and their rights. The rules of the House of Commons, and of the Colonial and State Assemblies, were familiar to them. Had they entertained a doubt of the right in every legislative body to protect itself against violence and corruption, they would have provided for its security. We are invested with authority to legislate for the people. To us is committed the protection of their lives, liberties, and property. How are we to perform these duties if we have no power to defend ourselves against insult?

The gentleman from Mississippi (Mr. PONDREXTER) admits that we have the power to punish a contempt. We only differ, then, in defining the act. He would remove an offensive person from the House, and would defend the body from interruption; but, at the same time, he seems to contend that we have no power but that expressed in the Constitution; hence I was at a loss to perceive how his conclusion would follow his premises. The Constitution gives no express



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power to punish for contempt; yet he would punish, and still insist upon a literal adherence to the Constitution. It is probable that I did not understand him.

I regret that I did not distinctly hear the gentleman from Louisiana, (Mr. ROBERTSON,) as I always expect to be edified by his remarks. His account of the State constitutions in defining this power, I apprehend, is essentially incorrect. In some of the States this power is expressly given; that of Massachusetts provides for the punishment of any who threatens harm to a member in the place where the General Court is sitting. In other States the power is exercised where it is not expressly delegated. The practice in the Colonial Assemblies has accorded with this claim of the right of this House. And surely it could never have been intended to leave the House of Representatives of the United States destitute of a right, exercised by the most petty Provincial Assembly. Sir, I do not resort to common law. I take the ground that the framers of the Constitution knew what was meant by a legislative body, and that they never intended to give us the powers of legislators, and, at the same time, to deny us the means of exercising those powers. If, while we are performing our duties, any one may offer a member a bribe, and we are destitute of the powers to prevent, arrest, or punish the offender, we exhibit to the world a most singular spectacle of imbecility.

But my honorable friend from Virginia (Mr. BARBOUR) takes strong ground. He opens the Constitution, and insists, unless the instrument expressly gives this power, you have it not. He takes his positions so strong, and urges and defends them with such ability, as seems to invite and defy opposition. I confess that it is with great caution and reluctance that I meet that gentleman in the field of argument; he is an opponent whom I should always prefer to avoid. But as his course is open, frank, manly, and fair, I am bound to hazard the presumption to meet him. He states that exemption from arrest and from accountability for words spoken in the House, are the only privileges expressly given by the Constitution, and infers that all others are, therefore, excluded. That expressly to include one thing, impliedly excludes others, is a principle which I readily admit; but its application to this case I am obliged to deny. These privileges extend to times and places beyond the reach of this House. The privilege from arrest commences before and continues after the existence of this House. It exists before and after the person claiming it is a member. There may be no House organized to protect them in these privileges; special provision, therefore, was necessary, that they might seek relief from the judicial tribunals. To be shielded from accountability for language used in the House is more extensive, and continues during the life of a member.

It is true that the privilege from arrest includes the time of the session, and more. This, however, is a privilege against the operation of a general law. Both of these privileges are protec-

tions from acts otherwise lawful. Is it to be inferred, therefore, that there is no security against acts which are unlawful? Singular, indeed, would it be, that our Constitution should take care to guard the Representatives against arrest for just debts, before, and after, and during the time of their attending the session, and at the same time deny the House the privilege to protect itself from abuse and violence. The very circumstance that the Constitution has given to members these privileges, when they are out of the power and protection of the House, and has not guarded the body collectively from fraud and violence, is conclusive evidence that it was believed and understood that self-protection was inherent or incidental. So far, therefore, is this grant of privileges from excluding the power for which we contend, that it supports and confirms it.

And here, sir, I will take the liberty to reply to an objection offered by the gentleman from New Hampshire, (Mr. LIVERMORE.) He states a strong case. Suppose, says he, in coming to this place, I should have been insulted by the governor or a judge of New Hampshire, and should complain to this House, could they send their Sergeant-at-Arms and bring him by force, to answer for the contempt? I should think not. This would be an abuse of a person before he had become a member. This House did not exist when the act was done. The insult was not to this body. Until that gentleman appears, is qualified, and takes his seat, we have no right to his services, and no power over his actions; and hence an insult to him is not an insult to us. My doctrine is this: as soon as a member is subject to our rules, he is entitled to our protection, and every violence or indignity offered to him, as a member, is a contempt of the House. Cases of doubtful character might be stated: if a member, while absent with leave, should be treated contemptuously, can the House send for and punish the offender? Upon my hypothesis, perhaps not, the member not being subject to our control. Suppose him absent without leave; he, having violated our rules, may have forfeited our protection. When these cases of doubt shall happen, it will then be our duty to decide them. It is sufficient for us that the case under consideration is of a bribe offered to an acting member, while the House was sitting, and for the purpose of influencing our deliberations and perverting our decisions.

But the honorable gentleman from Virginia, aware of the consequences to which his doctrines will lead, has endeavored to answer every objection. He admits that we have the exclusive right to this House; and, to prevent disturbances and interruptions, we may exclude from its galleries those who are rude or uncivil. This is all the answer which he gives us; this is the only cure for our inability to punish contempts. While the honorable member from New York (Mr. SPENCER) was denying our powers to punish, a case well nigh happened in the galleries which would have put his principles to the test. There was a little disturbance, and the gentleman was

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on the point of calling for that protection which he was then attempting to prove this House could not afford. It, however, gave me some consolation that, instead of asking the people to be so obliging as to suspend their conversation until we should have finished our debate, the Speaker ventured, very promptly, to order the noise to be suppressed. All the admission, however, that we can extort from the gentleman from Virginia is, that we have a power to turn out an intruder, if he be rude or uncivil. But suppose that a person in the galleries should amuse himself by throwing stones at the Speaker: before your Sergeant-at-Arms can overtake him he is in the street, out of your power. He is removed, but the abuse of the Speaker remains, and the indignity to the House is unatoned. Suppose while that or some other gentleman was debating, some bully should enter and take him by the throat or nose, and before the Sergeant-at-Arms could interfere he should be pitched headlong down the stairs, and the perpetrator should be off: What is the remedy? Why, forsooth, the person injured might go to a magistrate and make oath, and if he could find the offender, arrest and try him for an assault and battery, fine him in some twenty shillings, and the next day he would return to your galleries and laugh in your face. This remedy, by *removal*, is all we are allowed. The aggressor, from without, might throw stones at or beat drums under your windows: he might stand at your door, and horsewhip a member as soon as he entered the street, for his conduct on this floor; and this is a private injury, done to a private individual, and to be punished by the ordinary process of law! Some Cromwell, with a few myrmidons, might enter your hall, and with their bayonets drive the members out of the windows like a flock of sheep; and the remedy is, to re-enter and expel them if you can!

But why cite cases? That under consideration is a case of singular atrocity. The chairman of your Committee of Claims is an officer of the first responsibility. To him you have intrusted the keys of your Treasury. His compassion is to be tempted by the repeated importunities of the necessitous. He should set his face like a flint against the clamorous lurkers round your Treasury. He is your guardian angel, with a flaming sword turning every way, to defend this sanctuary of the people. He is faithful, vigilant, and honorable. He holds the purse-strings of the nation, and the man must have a good case, and good luck in the bargain, who shall induce him to untie them. But John Anderson wants money—he does not climb up some other way, and endeavor to enter the back door or the windows—he advances boldly to the front, seizes the keeper, and attempts to wrest from him the keys. You are advised of this atrocity, and indignantly order the culprit to be brought before you. But you are gravely told that this is an act which you have no power to punish or prevent—sympathy succeeds indignation. A citizen is deprived of his liberty! A storm gathers on our brow, the lightning of indignation flashes in the eye, and

the thunder of eloquence bursts from the lips. But when an honorable member of our House is insulted and abused, and ourselves scandalized by a foul attempt to corrupt us, our philosophy returns. We discover wonderful composure; become mild as a Mayday morn, "soft as the gentle zephyr's breath," "calm and unruffled as a summer's sea when not a breath of wind flies over its surface." Why this extreme in favor of this man? I trust it springs from the most honorable feelings of the human heart; but fear that those feelings may pervert our judgments.

We are told that precedents are dangerous, and ought not to be trusted. Precedents which I have been taught to believe were the buoys and beacons to point out to the political mariner the course he is to steer his ship, to avoid the rocks, shoals, and quicksands which lay in his way, are now converted into the syren which lures him to whirlpools and inevitable destruction. Well, let them go. If our own decisions smell too strong of party, cast them aside. If foreign rules have become too musty, or savor of royalty, reject them. If State or Provincial practices are too local, we will not trust them. And, as God Almighty has implanted in the heart of man the principle of self-defence and self-protection, so let this political body, representing eight millions of people, establish the precedent that it has the power to repel and punish aggression, and announce to our constituents and the world, that no one can, with impunity, insult us *with a bribe*.

Mr. STORRS, of New York, said that, protracted as the debate had been, he would rely on the candor and patience of the House while he offered some remarks on a question deeply involving its dignity, purity, and independence. He should consider the passage of these resolutions a public calamity, and was unwilling to repress his disapprobation of them, and the doctrines they assumed, by a silent vote. Specious as the objections which had been made to the exercise of the power in question might appear, and plausible as the arguments urged in support of the resolutions were, yet, in his judgment, they would, on careful examination, be found to have originated from a postulate altogether inadmissible. The fancied distinction which gentlemen had drawn between the sovereignty of the States and of Congress, was fallacious, and without any just foundation in the structure of our Government. Though the legislative powers of Congress are limited to the specific objects designated by the Constitution, yet its sovereignty in the exercise of these is absolute and unlimited, except by the fundamental principles of all civil governments whatever. But it was not necessary to rely even on this exposition of the unsoundness of the distinction which had been made.

He would call the attention of the House, and particularly of the honorable gentleman from Virginia, (Mr. BARBOUR,) to a part of the Constitution which, in his remarks on yesterday, he had omitted to notice. Over the District of Columbia, Congress, by the eighth section, first article of that instrument, have the power of "ex-

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clusive legislation in all cases whatsoever." The capacity of Congress is, therefore, two-fold; the one including the exercise of certain powers of legislation relating to the States; the other, the powers and attributes of sovereignty, as a National Legislature. Within this District, said Mr. S., our power is equal to, and co-ordinate with, the most unlimited sovereignty. In other times, the declaration of the Parliament of Great Britain, that they possessed the right to exercise exclusive legislation over America in all cases whatsoever, was considered the very perfection of despotism. Whatever it might have been in a body where America was unrepresented, yet the phrase itself defines a power sovereign in its nature, and uncontrollable in its operation. This clause of the Constitution appears to have been adopted by the Convention with this express design. Since gentlemen had, in the course of the argument, resorted to the authority of names, and to the dogmas of civilians, he would ask their attention to an opinion of the late Executive of the Union, to be found in a work justly considered the text-book of construction. In that part of the *Federalist* which was from the pen of Mr. Madison, when considering that clause to which he had referred, the language is so emphatic, and peculiarly applicable to the question now before the House, that he would read the extract: "The indispensable necessity of complete authority at the seat of Government, carries its own evidence with it. It is a power exercised by every Legislature of the Union, I might say of the world, by virtue of its general supremacy. Without it, not only the public authority might be insulted, but its proceedings interrupted with impunity." Can a more palpable exposition of the futility of the assumption on which these distinctions are founded be offered? Will the effect of these observations be evaded by referring them to the power of self-preservation? The whole scope of their assumes, as an axiom, that the supremacy of Congress, at least within this District, is clothed with all the attributes of sovereignty which are vested in the State governments. The offence committed by John Anderson against the privileges of the House has, therefore, been perpetrated in our own exclusive territorial jurisdiction. Whatever doubts might be suggested in cases which have been started of a libel from a Philadelphia printer, or a breach of privilege by an arrest of a member, made in New Hampshire, this case is widely different in this respect. The offender has not assailed us from another concurrent jurisdiction; he has invaded that which is exclusively our own; he has violated our privileges within our own undisputed boundaries, and is amenable to us as sovereigns of the national territory. Mr. S. said that the power of Congress, as well as of every other legislative body, to punish for contempt or breach of privilege, (he cared not by which name it was called,) was inseparably annexed to, and included in, the power itself to legislate. I assure my honorable colleague (Mr. SPENCER) that necessity is a word as odious to my ears as it can possibly be to his.

It has been, with much reason, called the plea of tyrants, and was often truly so. But it is not necessary to resort to this plea, in that sense of it, to support the Parliamentary powers of the House; nor would he insist that this power was to be appropriated to themselves by the House as a separate incidental right, if gentlemen disliked the expression. The House possessed it on the well-established and undisputed maxim, that whenever a grant of any power whatever is made, every other power requisite to the complete and perfect enjoyment and exercise of it, is included, of consequence, in the grant itself. Those powers which had been termed incidental or necessary, might, with more propriety, be considered as branches of the original grant, and, from their nature, rather included in than annexed unto it. It is admitted that punishment may rightfully be inflicted for contempts committed within the walls of the House, or in its immediate view; but this power is exercised on the principle of self-preservation only. Were this true, it would resolve itself into the exertion of mere blind, physical power. It would become a law of force merely. Nor should we require any delegation of it from any source whatever. The right we have collectively, even as occupants of the building, and, individually, as men. The power of punishing for contempts is a moral, legal power, including judicial discretion, and relying for its exercise on known and fixed rules, and founded on moral system. In exercising it, even in cases of contempt committed within the House, we must first deliberate and adjudge, and, afterwards, execute. Did we proceed on the principles of self-preservation merely, it would authorize the infliction of punishment without the previous adjudication of a contempt. But, said Mr. S., we have been met with Constitutional objections, derived from the forms of our proceedings. The honorable gentleman from the State of New York (Mr. SPENCER) has read to the House that amendment which declares that no person shall be held to answer for a capital or otherwise infamous crime unless on indictment or presentment of a grand jury, &c. The obvious answer to this objection is found in the remark, that a breach of the privileges of this House is not a capital offence, nor does the conviction create that infamy which, by the common law, disqualifies the party as a witness, or imposes any other legal disabilities. Nor is the intervention of a grand jury necessary in this case. That amendment of the Constitution must apply only to prosecutions under the laws of the United States. But, said Mr. S., the offender may in this way be punished twice for the offence; and the honorable gentleman from Mississippi (Mr. POINDEXTER) has pressed upon the House that amendment of the Constitution also. We are not proceeding against John Anderson for the crime of bribery. The charge is a breach of the privileges of the House; and, although it is involved in an attempt to bribe one of its members, yet, in relation to this House, it is a distinct offence. Nor is the case without analogy in the code of

our criminal jurisprudence. Should one, by the felonious burning of a dwelling-house, produce the death of its inhabitants, would it be seriously contended that the felon had not rendered himself obnoxious to indictment for murder as well as arson? And, were not either offence capital, must he not suffer the punishment of both. Wherever an act involves in its nature, or produces in its consequences, two distinct substantive offences, the offender must answer separately for every infraction of the law. It was emphatically asked, said Mr. S., by the colleague of the honorable gentleman from Virginia, (Mr. BARBOUR,) from whence does this House derive the power to send for persons and papers? What has been the answer to the question? It has been said, that although it is admitted that no particular part of the Constitution has expressly delegated this power, yet it is inferred from a concurrent construction of the power to regulate its own rules and proceedings, and the power to appoint its officers. Gentlemen, in furnishing this solution, were it the true one, have surely not been aware of its applicability to the very case now before the House. What has been done in this case? What have been our unanimous proceedings against John Anderson? The warrant of the Speaker has been issued, in compliance with an express rule of the House, entered on its Journals, and the Sergeant-at-Arms, in the execution of his duties, in obedience to the precept, has arrested the person of Anderson. Mr. S. disclaimed, however, to rest the power of sending for persons on these principles of construction, but referred it to those already stated. But, said he, the rights of the people are said to be in jeopardy. He could hardly suppose that the punishment of a man for an attempt to bribe the House would create any alarm. My political course, for the last ten years, has been such that I believe no one will accuse me of disregard to the rights of the people, or a disposition to yield them up quietly to the encroachments of the General Government: yet I trust that I have never lost sight of its dignity and authority.—Should I seriously ask my constituents, whether the punishment of a miscreant, who had offered to contaminate with a base bribe an honorable member of this House, was within our legislative powers? The last reflection which would occur to them would be, that their liberties had any concern in the question.

Mr. PINDALL, of Virginia, said he had understood the honorable mover of the resolution now before the House, to admit that this House might in some instances proceed to punish contempts of its authority or privileges, and that the authority of the House to punish a disturbance or insult occurring in its presence or galleries would not be questioned. If the House has a legitimate power, said Mr. P., to punish a contempt in any case, and that authority be a limited one, it follows that the House should proceed to inquire whether an alleged offence is within the boundary of its jurisdiction, previous to any final order to inflict punishment. This inquiry could

only be made by investigating and ascertaining the fact charged as an offence. The resolution, therefore, to arrest the prosecution seems premature, as we should first hear evidence and ascertain facts, in order to enable us to determine whether the offender (if committed) be within the sphere of our admitted jurisdiction. If this House can, in any case, punish a contempt, the present discussion should resolve itself, not into a question whether the House can punish, but into the inquiry whether the fact proved or charged be within the bounds of its legitimate power. Although the gentleman from New York (Mr. SPENCER) admits the power of the House to punish for contempts in some cases, it seems that other gentlemen, who support his resolutions, assume the broad ground of denying that the House can exercise such an authority in any case. This conflict of principles between the supporters of the resolutions, must necessarily produce embarrassment on any one who goes in quest of acknowledged principles to enable him to arrive at a correct conclusion. Gentlemen, however, who totally deny the power in question, have the candor to acknowledge that the House may perform certain acts by its incidental authority, the performance of which acts they contend is not the exercise of the power of punishment. The honorable gentleman from Kentucky (Mr. ANDERSON) admits that the House may order its officer to remove any disorderly person from the gallery who disturbs the transaction of business or the decorum of our proceedings. Our Sergeant, then, in this instance, restrains such disorderly person for a time of his liberty, and, having him in custody, removes him from the gallery into the street; if gentlemen will advert to the means and object of punishment, not as defined by the common law, (for its authority has been denied,) but, according to the notions entertained by writers upon natural law or ethics, they will find such means and object predicable of this act of our officer, for the means of punishment operate by a restraint upon the natural liberty of individuals, the object of punishment is to obtain security against the act of the offender. The Sergeant arrests the culprit in the gallery, or whilst assaulting our windows from without, and thereby restrains his liberty, and this restraint is imposed with a view to obtain security from the insults of the offender. I ask gentlemen to define punishment and the power of punishment, in their own language, so as to include all punishments, and exclude everything else, and I venture to predict that the definitions may be affirmed of the conduct of our officer while removing the culprit from our gallery. The power of punishment may be exercised in the instance mentioned, and, by a view of the source from whence that power is derived, it will evince a flow of authority sufficiently broad to include other cases. You punish disorder in your presence, or in your gallery, because it impedes, molests, or disturbs you in the performance of your Constitutional duties; you are entitled to punish every obstruction to the

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due performance of those Constitutional duties, whether the obstruction or insult proceeds from the turbulent shouting of the thoughtless, or assaults of blows or bribes by the strong or designing. You punish an insult offered to the whole House in the performance of its duty; but the House, in the ordinary performance of its duty, divides its labor and imposes portions of that duty upon its committees; these committees, frequently from necessity, subdivide their labor among its members, and offences and obstructions which may have a tendency to impede a committee, or its chairman, or members, from the duty thus imposed or required by the House, are contempts not punishable by the committee or its members, but by the House; for members, while laboring in committee, by order of the House, are not less in the performance of their Constitutional duty than when addressing the Speaker on this floor, consequently the privileges are coextensive with their transaction of business in the committee. If a turbulent man disturbs fifty members by casting stones through our windows, will you hesitate to punish him, until it can be ascertained that a majority of all the members here have been frightened by the assault? My honorable colleague (Mr. BARBOUR) has given an uncommon derivation of the right of the House to suppress disturbances in its gallery; he supposes we may build or hire a house, of which we become the masters, and he imagines our right to remove an individual from the gallery is built on the same foundation with the right of any private man to control his own household. I would ask my honorable colleague, what course we ought to pursue, if rioters should overcome our Sergeant and hold forcible possession of the galleries? On such an event I conceive that one of these methods only could give relief: 1st. We must apply for the assistance of a justice of the peace and constable; or, 2d, Prosecute an action of ejectment against the rioters; or, 3d, Resort to the physical power of the individual members here to assist our officer; or, 4th. Direct the Sergeant-at-Arms to summon the citizens of the United States to his aid. I believe it will not be seriously contended that we ought to apply to a justice of the peace to obtain the desired relief; yet, as well the resolutions before us, as the arguments of gentlemen would lead us to that application. They say they wish leave to make a law to punish certain contempts; that there is no such law; and that this House cannot punish offenders without such previous law. They wish to send the case of John Anderson to the Attorney General; but as there is no law to punish the offence, the courts of record whose province it is to execute the laws cannot punish the offender; our attorney, therefore, could (by the doctrine advanced) do no more than apply to a justice of the peace, to bind the offenders to their good behaviour by recognizance, and exhibit the anomaly of a National Legislature, begging a justice of the peace to interpose his discretionary powers to protect them from attacks which might subvert or suspend the

exercise of the legislative authority. If my alternative proposition be correct in its shape, and if I may reject its first three branches, by affirming that this House would not be under the necessity of applying to a justice of the peace, or prosecuting an action of ejectment, or resorting to the physical force of individual members; it will of course follow, that the Sergeant-at-Arms may summon the citizens of the United States to his assistance in quelling a riot in our presence; and, if the Sergeant has such authority, or can derive it from our command, it must be the consequence or effect of some political or municipal power vested in this House—a power which my colleague, I trust, will agree, cannot be exercised by the mere owner of a private house. This public power of your officer to summon the people of the United States to his assistance, may be called a political, or municipal, or civil power, as gentleman please; but I must beg them to consider the derivation of his power. It is not expressly delegated by the Constitution, and is, therefore, an implied power; and every rule of interpretation that justifies the inference of this implied power will equally authorize the implication of all the powers necessary to defend and secure the privileges of this House.

The House possesses an inherent power to preserve its own privileges—a power inseparable from the power of legislation granted by the Constitution. This power derogates not from the rights of the States or the people, but is derived from those rights. It is by the grant or command of the States and people we exercise the powers confided by the Constitution; and, inasmuch as they intend we should, at all hazard, execute those powers, they must, of necessity, have intended that we should suppress all obstructions to their due exercise. We cannot excuse ourselves for omitting to execute, or for the undue exercise of those powers, by informing our constituents we were hindered and insulted by menaces and offers of blows and bribes, inasmuch as the Constitution has given us the power of appointing our own officers. The gentleman from Virginia (Mr. BARBOUR) admits our authority to make a Sergeant-at-Arms; the Constitution has not defined the duty of that officer; and since we are left to arrive at his duty by inference, what is more natural than to believe that his duty consists in executing our commands to preserve our privileges?

It is proposed to enact a law to punish breaches of privilege, on the assumed ground that such breach cannot be punished until made a crime by law; but how, if we are insulted and obstructed from public business, whilst endeavoring to make that law? How, if we are compelled by force and insult, to desist from legislation? The grant of powers by the Constitution must then cease, because we refuse to assume a power which we here see is absolutely necessary to enable us to perform our duty. I concur with gentlemen in discarding the authority of Parliamentary precedents. Neither this Government, or its depart-

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ments, are indebted to precedents for their faculties. Our Constitution is not forty years old, and precedents more recent than its origin would not influence me to warp the interpretation of that instrument. Yet I am at a loss to know why some gentlemen imagine that the power so frequently exercised by the British House of Commons, derogated from the liberty of the people. The increase of the privileges of that House has been acquired by inroads upon the royal prerogative. Before the extension of their privileges, the great danger apprehended was the power claimed by the Crown to imprison the Commons, and not the power claimed by the Representatives of the people to defend their own privileges. Precedent is a shelter for imbecility. The Commons, originally the most helpless branch of the British Government, resorted to precedents and gradual encroachment on prerogative to establish their privileges, on which so vitally depended the interests of the people. But the House of Representatives derives its privileges from a just interpretation of the Constitution, and asks no aid from precedents, when claiming merely a power essential to the exercise of its duties. I am opposed to granting leave to bring in a bill to punish breaches of privileges, because we already possess the power to punish, derived from a higher source. If a power to defend our own privilege cannot be implied from the Constitution, we cannot pass a law to enable ourselves to assume such a power. If the different branches of the Legislature are not independent of each other, the purposes of the framers of the Constitution are not obtained; yet we are necessarily dependent on the Senate, if under the necessity of procuring its assent, to enable us to preserve those privileges essential to the exercise of our duties. It is the province of the judiciary to expound and enforce the laws of the United States. By embodying the privileges of this House in acts of Congress, we refer their discussion exclusively to the courts, and thereby subject the independence of this House to the control of those courts. I most cheerfully agree, that the judiciary is an independent and co-ordinate department of this Government, but am not willing to acknowledge its authority paramount to the authority of this House, in relation to matters which concern its privileges. And, were it possible to waive all these objections, I deem it impracticable to enumerate and define the contempts which may be offered, as it would be impossible to define the contempts offered to any other supreme court.

My colleague (Mr. BARBOUR) infers, from the enumeration of privileges in the Constitution, that the authority now claimed does not exist. A reference to the enumerated privileges will show, that the framers of the Constitution were sensible that this House would possess privileges which it was deemed unnecessary to enumerate; for the enumerated privileges are such as were not incidental to the powers of legislation. Exemption from arrest might be construed as waived, by a member who became a merchant, or voluntarily contracted debts after his privilege had

commenced. It might have been doubted, whether a person elected was a member until he accepted his office, by taking his seat or taking the oath to support the Constitution. Moreover, the privileges enumerated are such as must be frequently discussed in vacation. If a member be arrested in returning from the session, the courts must have a law to govern them in regard to his privilege. If a member be sued for slanderous words spoken in debate, the courts must be informed of the law which is to govern their decision; but as to privileges, incidental to the powers of legislation, and which the House itself may assert and preserve, it was unnecessary to enumerate them.

It is objected, that the exercise of the power to punish by this House might infract the fifth article of the amendments to the Constitution, which provides that a man shall not be twice put in jeopardy for the same offence; and that any punishment inflicted by this House would not exempt the culprit from another punishment, under the sentence of a criminal court. This objection assumes as granted the question we are now discussing. True, no man shall be twice punished or twice put in jeopardy for the same offence; and if we have no power to punish him, the criminal court might punish him again. But I insist that we have the power. If we have the power, then the sentence of this House, and the fifth article of the amendments, will bar any further prosecution, for the same offence, before any other tribunal. The fourth article of the amendments to the Constitution provides, that no warrant shall issue but upon oath or affirmation; and gentlemen have excepted to the warrant against John Anderson, as having issued without an oath to support it. This article of the Constitution furnishes a rule as to the proof necessary to authorize the emanation of a warrant; but when no proof is necessary, this rule has no application; and no proof can be necessary when a crime is committed in the presence of the tribunal authorized to examine it, or when that crime is confessed, or when the offence consists in a contempt of that tribunal. The contempt here was committed in the presence of one of the judges of privilege; and as the judge of a court of record can take a recognizance, which, when returned, becomes a part of the record, so the Chairman of the Committee of Claims can make a report, to which the House will allow credit until contradicted.

Those who question the title of this House to punish contempts of its authority, demand that we shall point out the limits of this power of punishment. To this demand it might be replied, that an ambiguity in relation to the extent of such power, or a diversity of opinion in regard to its precise limits, could afford no argument against its existence, although it might furnish (at least in the minds of some gentlemen) a strong motive to have some exact boundaries interposed by an amendment to the fundamental institutions of the Union. But the source from whence the power is derived has in past times, and probably



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will in future, as to all practicable purposes, furnish a guide to the exercise of the authority. The right, nay, the duty, of preserving inviolate those privileges which are essential to the faculties of the Constitution, dictates to this House the power of punishment; the power, therefore, must be co-extensive with the privileges of the House, and the punishment to be inflicted, in any case, should be proportioned or increased, as the nature or violence of the attack upon the privileges of this branch of the Legislature might impair or endanger its independence or integrity. The power of courts of justice to punish for contempts, does not admit of greater certainty in its measurement than the jurisdiction now claimed for this House; yet we never hear of objections to the exercise of this power by the courts, on account of any pretended uncertainty of its extent. The gentleman from Mississippi would confine the power of punishment, by a court, to contempts offered in its presence. A little reflection, I am satisfied, will convince that honorable member that the courts can punish contempts of their authority, whether offered in court or in the country, in term time, or vacation; that such contempts are punished, and such punishments warranted by principle, precedent, and practice. If contempts be offered openly in the presence of the court, whilst sitting, it inflicts punishment without further inquiry; but if offered in the country, or out of immediate view, the offence charged must be properly reported and proved, to induce the court to interpose its authority. So the chairman of a committee cannot, by his own mere authority, punish a contempt, but this House may, when the offence is reported, proceed to punish the offender.

MONDAY, January 12.

On motion of Mr. SCOTT, the Committee on the Public Lands were instructed to inquire into the expediency and policy of amending the act, entitled "An act relating to settlers on the lands of the United States;" so that all settlers on public lands, who have not leased from the United States, shall remain thereon, in peaceable possession, one year from the expiration of the existing laws on that subject.

On motion of Mr. SCOTT, the Committee on the Public Lands were instructed to inquire into the expediency of providing by law, for the making disposable, like other public lands, such parts and portions of the lead mines and salt springs in the Missouri Territory, as shall be deemed not of sufficient extent or value to be retained by the Government, reserving such only as shall be deemed of sufficient extent and value for the public use.

The House took up the amendments proposed by the Senate to the resolution "directing the procurement of certain laws;" and the same, being read, were concurred in.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the relief of Winslow and Henry Lewis,"

with an amendment, in which they ask the concurrence of this House.

#### CASE OF COLONEL ANDERSON.

The House then proceeded to the consideration of the resolutions offered by Mr. SPENCER, touching the case of Colonel John Anderson.

Mr. QUARLES, of Kentucky, rose. This, he said, being a great Constitutional question, involving the privilege of the members of Congress on one side, and the rights of the citizen on the other; and it appearing, from the indulgence already given to the debate, that the House was willing and disposed to hear a full and ample discussion of the subject, by every member who chose to exercise that right, was his apology for offering the remarks he was about to make.

I, said Mr. Q., for one, deny—first, that the House have the power to punish John Anderson; and, secondly, deny that it should possess that power; and contend that the most dangerous consequences may result from the recognition and exercise of it. Let us, said Mr. Q., investigate the situation of this case, and see how it really is. It seems that the accused wrote to the Honorable LEWIS WILLIAMS, Chairman of the Committee of Claims, and delivered to him, in his private room, or at his private lodgings, a letter proffering him a bribe. I am willing to place this case in its strongest possible situation, and admit that he did actually offer him a bribe of five hundred dollars for reporting favorably to claims which he had pending before that committee—an act at which there was an universal burst of indignation manifested by this House, upon the communication of the honorable member, rising in his place, and relating the case and infamous attempt upon his integrity; an action, about the turpitude of which, there seemed then to be, and I am confident exists now, universally in the walls of this House, but one opinion. If we possess the power to punish the act of John Anderson, it seems to me, with deference to the opinions of gentlemen who differ from me on this subject, that we derive it either from the Constitution of the United States, or some statutory provision made conformably thereto, or the *Lex Parliamentaria*, or Law of Parliament of Great Britain.

The framers of the Constitution of the United States, being acquainted with the disposition which had been manifested by the House of Commons of the Parliament of Great Britain, who derived their power immediately from the people, and were presumed to be acquainted with the interest, the will, and the feelings of their constituents, and responsible to them, at the returning elections, for a faithful and honest discharge of their duties—and knowing that there had been an accumulation of privileges which had been assumed and arrogated to themselves (the said members of Parliament) which had produced many exemptions and immunities to that body, and thereby encroached upon the rights of the people; and the framers of our political institutions, knowing also the love of power which was natural not

only to man in his individual, but also in his corporate capacity, adopted this wise provision in our Constitution, which will be found in the first article and sixth section thereof—speaking of the members of Congress and their privileges, this expression is used: "They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place." There being a variety of other privileges secured to the British Parliament, and these also being a small portion of those enumerated at the time our Constitution was framed, and the whole of the others of the British Parliament being known to the enlightened founders of our political institutions, it seems to me that the adoption of these alone by them, clearly evinced a disposition that the enumerated privileges, and those explicitly defined, should be the only ones secured to the member of Congress—they being essential for national purposes, by securing his services, which were conceived of more importance to the nation than his detention could be, which would only exist at the instance or suit of a private individual, and for his benefit; when, by the member being prevented from attending to his legislative business, thirty or forty thousand people would be left without a representative.

Many arguments have been drawn from an analogy between this House and courts of justice, possessing the power to fine and imprison for a contempt of their authority. I will answer that, by denying that any court of the United States, or of any State in the Union, possesses the power of fining and imprisoning for any contempt, unless the power is derived by the recognition of the common law ingrafted in the Constitution, giving that right, or by statutory enactment. Many arguments also have been advanced, attempting to show that all bodies have the inherent power of self-preservation and protection, and consequently possess the power of punishing for any act which will tend to corrupt and contaminate them in the discharge of their various duties. Whilst I am willing to admit that corporate bodies have the same inherent powers that a private individual has, in protecting his mansion, which would enable him to repel force, and remove from his house any person that invades his domicile; and that he might apportion his force to the violence offered; I am very far from admitting that either an individual, in his own right, has the power to punish, or that a corporate body has; the power of self-preservation and protection does not necessarily give the power to punish. Can there be an example of any corporate body that ever did exist in a free country, or a country of laws, inherently possessing and exercising any other than the power of self-preservation and protection? Was the attack of John Anderson an attack upon the corporate capacity of this House, that will authorize us to bring him before us and punish him? Did it interrupt our deliberations?

Was it a contempt which offered molestation or violence to our discussions? Was it in the walls of the House, or the purlieu thereof? Was it in the committee room? No. Then by what power, either inherent, or upon the analogy of courts of justice, can we have the power to punish? Suppose, for the sake of argument, a judge was in his room at his private lodgings, and he should be insulted by being offered a bribe; could he punish the person unless he was by the Constitution or law made a conservator of the peace, and an attempt to bribe was such a breach thereof? I imagine he could not. It only remains for me to show, before I dismiss the first division of the subject, that the *Lex Parliamentaria*, or Law of Parliament of Great Britain, cannot apply to this case. It is not incorporated in our Constitution, or adopted by any feature thereof, (except giving the privileges and exemptions clearly defined, and about which there can be no doubt,) and enumerated in the article and section before noticed by me. There are with me other strong reasons why we ought not to exercise or attempt the exercise of the power to punish the accused; it is well known there is an honest difference of opinion which pervades this body; whether we have the ample and complete power to punish for the alleged offence; it only being secured to us, if it is possessed at all, by construction. This House are not now to learn, that the great Constitutional privilege of the law of *habeas corpus* is secured to us, and can only be suspended in times of invasion and rebellion; neither of which exists now.

Suppose, that, during the pendency of this debate, John Anderson would petition, and obtain from the Judge of the District of Columbia, the writ of *habeas corpus*, and the judge, in the exercise of his judicial powers, should entertain an opinion, which all this House, who deny the power of this body to punish, also entertain; would he not release him from his confinement? It is certain he would. And what a curious spectacle, and I had almost said farce, would we have been exhibiting! Just as we decide, this House has the power to punish the accused, and order the Sergeant-at-Arms to bring in John Anderson, we should be informed that he was liberated by the judge of this District. I will now notice the arguments of the gentleman from New York (Mr. STORRS.) If I understand that gentleman, I think he said, that the Constitution of the United States, giving Congress the power to make laws for the District of Columbia, and plenary legislation over it, vested them with the same power that the legislative bodies of the States have over their respective States; and that thereby we were vested with the power contended for. I will barely observe that the plenary power of the legislation over this District is vested in the Congress, consisting of two branches thereof, and if the power to make laws for our Government, and the people of this District, was possessed by one branch of the National Legislature, the convention of both would be useless; either might convene and pass resolutions, which would

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have all the force of laws regularly passed in this District.

It appears to me that I have shown that no power derived from the Constitution or from the *Lex Parliamentaria* or law of Parliament of Great Britain, or inherent, self-preserving, and protecting power, can justify our punishing John Anderson, it being yielded by all parties that there is no statutory provision vesting us with it. It will now be my duty to show, according to my method, pointed out in the commencement of the argument, that we ought not to possess that power; that it might some day or other shake the very foundation of our political institutions. In times of peace, harmony, and quiet in the country, no danger is to be apprehended; and, so long as a majority of this House are honest, and disposed to preserve the purity of our political institutions, there is no danger. These were not the times which the framers of our Constitution had in view. It was in factious times, of great party heat in the country, wherein the privilege of the members of Congress and of the citizen might be involved, that we were intended to be restrained and our powers defined. Were we all virtuous, were we all wise, were we all disposed to act, now and at all times hereafter, correctly, there would need no checks. Constitutions and laws are framed for the protection of the rights of the innocent and harmless, from the aggression of the corrupt and violent. If we exercise the power of punishing for a contempt, which is not defined, and arrogate to ourselves privileges we are not possessed of, only by construction, where is the stopping point? Could it not be extended to an attempt to bribe us at our homes, before we set out to this place? It seems to me it might with as much propriety. And would any man say, that he could send for a person upwards of one thousand miles from home, for the commission of an offence not known to exist, only by a strained construction? It has been reiterated in argument, that we have the power and ought to punish this man, to preserve the incorruptibility and purity of this House from attempts to bribe us. My answer to this is, that we never shall legislate ourselves honest and pure; and if we are to keep out corruption in this way, the purity of the House is not worth preserving: if there is no other inducement to the performance of good acts than what is produced by protection to the member in punishing the villain that offers us a bribe, I fear our virtuous acts would not be many. What good can result from it? The honest correct statesman will, on every occasion of an act of this kind, treat, as the honorable chairman of the Committee of Claims has done this, the attempt with that indignation which is another, amongst the many evidences, of his qualifications, to discharge the trust reposed in him by his constituents and this House; and the time of its members will again be occupied probably several days in discussing the propriety of the inquiry: all sides yielding, that no precedent is conclusively to bind a future Congress on this subject; and, should a proposition be made by an infamous or corrupt man to

a member destitute of morality or honesty, the bribe is received, and there is an end of it. Why is it necessary or more proper that we should possess the power of preserving our purity and morality, than every other officer of the Government, in whose purity and morality the country is materially interested? And why should we have powers and privileges which no other person in this Government could or would dare to exercise? Is not the President of the United States an officer of as much importance in this Government as a member of Congress? Does he not draw his power from the whole people of these United States? Is he not the great Federal Head, possessing the executive, and, at the same time, legislative powers, to a certain extent? Is it not as important that his purity and morality should be preserved and protected, as the purity and morality of a member of Congress? Is he not a component part of the Legislature, to all the practical purposes of law-making? Cannot he put his veto on all bills which have passed the National Legislature, and thereby prevent their enactment, unless sanctioned by two-thirds of both branches thereof? It very frequently happens, that bills pass by a small majority of the Congress, and that these bills, some of them, are of the utmost importance to the United States. I will suppose one of this description has passed, and in the manner I have mentioned; and an offer should be made to the President to withhold his signature upon receiving a large sum as a bribe, and the consequence of his complying with the request of the infamous person who makes an attempt upon his integrity, would be, to prevent the enactment of the bill; would not this be a gross attempt to corrupt the Chief Magistrate of this nation, for the purpose of preventing a salutary bill from passing, which would conduce to the interest and prosperity of the people? I answer that it would. Suppose the President, feeling the force of the injury attempted to be done the country, and under the self-preserving and protecting power now contended for by many gentlemen of this House, should assume and arrogate to himself the power of punishing the person, and should order him to be fined and imprisoned therefor, judging himself of the magnitude of the offence and the extent of the punishment. What a clamor would be raised by the people of these United States! Executive patronage and influence, so much now agitated, would cease to be spoken of, and the attention of all classes of people would be directed to an inquiry, by what power, either vested in him by the Constitution or the laws of the land, did he exercise it? The answer of self-preserving and protecting power, inherently possessed by him, would not satisfy them; and this great Republic might be convulsed thereby. Suppose he should be walking in the streets of Washington, and the vilest ruffian in Christendom should commit an actual battery upon him, or should even enter his house, or rather the house assigned him by the Government, and in the same commit upon him an assault and battery, and the President should

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order him to jail, and inflict a fine upon him, at his own discretion. Would he have the power to do so? There is no doubt he would not. Why then should we be invested with the right of preserving and protecting our privileges, when officers of other departments of the Government, equally as important as that to which we belong, have to resort to the judicial tribunals of the country for redress for this very same kind of attack made upon them? And by whom an attempt to exercise any other power would call down the universal execration of all persons in the country.

Suppose an offer should be made to the directors of the Bank of the United States, at Philadelphia, to bribe them to discount a note with insufficient security. This is a corporation created by the United States, who have an interest in the purity of the conduct of its directors. Would the self-preserving power and protecting right enable them to punish the offender by an act of theirs, unconnected with the aid of judicial interposition? I imagine it would not. And I will ask, why they have not this power? Because it is not essential to the existence of the institution; it does not follow as a right incidental to their creation; or, as gentlemen have it, there is no inherent power. Another reason, and forcible one, with me, why we should not possess the power now contended for is, that there is no law apprising the citizens of the United States of the extent of the power contended for. And the liberties of any people are in great danger when the same body has the power to accuse, the right to make the law, the authority to adjudicate upon the violation of it, and the strength to enforce it simultaneously. It is at war with every principle of our political institutions, which guarantee the right of the humblest citizen equally with the most exalted personage. Some gentlemen have argued, and particularly the gentleman from Virginia, (Mr. PINDALL,) that he should be unwilling to permit the rights and the privileges of this House to be curtailed or limited by the check of the Senate, or the veto of the President, on passing a law to define them. So far as they are *defined*, I should be unwilling myself; but as every other person in the community, however exalted he may be, is obliged to submit to an encroachment on his right, and such as it is maintained this House now *inherently* possesses the power to punish, to be adjusted by the adjudication of courts of justice of the country, I can see no good reason why we should be exempt from the same mode of redress. Why is it that this land is sought as the asylum of the admirers of freedom and lovers of liberty of all other countries, who fly from oppression and grinding despotism? It is because it is understood and believed that this is a country of laws, based upon a free Constitution of proper checks and balances, and known to the citizen; and that there are no privileged orders *here*; and that the rights of the humblest citizen are equally protected with the most distinguished personage. Before I sit down, I will object to that part of the resolution which points out the duty of the Attorney for the United States in inquiring into

and punishing this attack upon one of our members. Having no right or power to punish ourselves, and believing we possess none to direct an inquiry into the alleged offence, by referring it to a tribunal over which we, as one branch of the National Legislature, possess no control, and, being unwilling to prejudge the case of any person, and bring him to the bar with the weight of this branch of the National Legislature against him, I am not willing to proceed further than the discharge of the accused, being thoroughly convinced that we do not possess, and ought not to possess the *power* contended for by gentlemen who hold the other side of the question.

Mr. McLANE, of Delaware, said that he could not permit himself to pass upon the important subject before the House, without submitting the reasons upon which the conviction in his mind had been formed. He had supposed that the present question had long ago been put at rest, and that, after a solemn decision in the year 1796, in a case similar in its nature to the present, and after the practice under, and repeated recognitions of that decision, for a period of more than twenty years, that the subject would not have been again disturbed, and that the power of this House to punish a contempt upon its own body would not now have been doubted. But, said he, Mr. Speaker, it seems that we live in an age when Constitutional scruples, and doubts of the powers of Congress, have become fashionable, and it is not unworthy of remark that these doubts multiply as we recede from the times in which this instrument was formed, and lose sight of those men who assisted in its formation, when, and by whom, it is fair to infer its spirit and meaning were at least as well understood as they can be at the present day. He thought that, whatsoever reason there might once have existed to apprehend that the powers of the General Government were too great; he believed there was much more reason at the present time to fear that they were not great enough, and that the disposition had become so prevalent to abridge our Constitutional power, that we ought to be very backward in voluntarily surrendering any portion of it. By this mode of confining us to the strict letter of the Constitution to take away powers of which we have been in the exercise from the period of its formation, the power of the General Government was in danger of being annihilated. In this way we might go on lopping off, one by one, the branches of our authority, until Congress would be left a naked trunk, without a limb by which its functions could be exerted. He would be as unwilling as any gentleman to advocate an extension of these powers beyond their just limits, but he was quite as unwilling, from any motive whatsoever, to circumscribe them in a narrower compass than a liberal and reasonable construction of the Constitution, according to its true spirit and import would justify. The present attempt appeared to him to be even more dangerous, than any that had been previously made; it not only confined us with unusual strictness to the objects actually enumerated in the

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Constitution, but also denied us the means necessary to effect the objects so delegated.

The resolution now before the House proposes to discharge John Anderson from the custody of the Sergeant-at-Arms, by whom he has been arrested under a warrant issued by the Speaker; and it is advocated upon two grounds; first, that this House has no power to punish for a contempt; and, secondly, that the warrant issued without oath. The first of these propositions has been attempted to be supported under those articles of the Constitution, which provide "that no person shall be deprived of life, liberty, or property, without due process of law;" "that no person shall be held to answer to a capital or otherwise infamous crime, unless on presentment or indictment of a grand jury;" "that in all criminal prosecutions, the accused shall enjoy the right of a speedy public trial by an impartial jury;" and "that no warrant shall issue but upon probable cause supported by oath or affirmation;" and, also, that as, by the Constitution, only two privileges are secured to the members of Congress, they have no others, and it has even been contended that, for a breach of these, this House has no power to punish. I shall not attempt, Mr. Speaker, said Mr. McLANE, to deny the existence or the soundness of these provisions, but I do deny altogether their application to the present case; they are totally beside the question now before the House, and have reference to a case which does not exist.

John Anderson is not now charged with the crime of bribery. We are not now about to try him for a "capital or otherwise infamous crime," or to inflict upon him the punishment which would follow his conviction upon such a trial; but we are proceeding against him for a contempt of the rights and dignity of this House; and although the act which he has committed, and which constituted the contempt, may also involve the guilt of bribery, this is a distinct offence, for which he is amenable to another tribunal. It would be the duty of that tribunal to avenge the injury done to the public peace and morals; it is ours to protect ourselves from the outrage and indignity upon our deliberative functions. I have heard, with great surprise, from the honorable gentleman from New York, (Mr. SPENCER,) that a man could not be twice tried for the same offence; and that therefore, as John Anderson may be tried for bribery, he is not liable to be proceeded against in any other manner. There is nothing more fallacious than this mode of reasoning; for although it may be conceded that a man cannot be twice punished for the same offence, yet it is perfectly clear that the same act may comprehend within it two, or even more offences, each of which is liable to distinct remedies and different punishments, and very frequently before separate tribunals. The crime which may be involved in the act which is the ground of the contempt, is no otherwise an offence against this House than as it may tend to aggravate the degree of indignity which is offered to it, and the House never could proceed to

try it, as it would not be in its power to inflict the adequate punishment; but it cannot be indifferent to the outrage committed upon its own character, or deprived of the power of punishing it, merely because the individual might be exposed to a trial at law, which, if he were to undergo, it would not purge the contempt. Such a mode of reasoning would involve this inconsistency, that for minor offences this House might punish for the contempt, but of those of a more atrocious character it could take no notice. I hold it to be undeniable that every act which offends against the public, and at the same time encroaches upon the rights of natural or artificial persons, may be prosecuted by either or all of the parties who are affected by it. Their injuries are distinct, and they must therefore pursue separate and distinct remedies. In the one case it is a public, in the other it is a private wrong; in the one, a public prosecution is the remedy, in the other, it must depend upon the nature of the person to whom the wrong has been done. Numerous instances might be cited in illustration of this principle, but I will content myself by mentioning one or two, which must be perfectly familiar to the professional experience of the honorable gentleman from New York. An assault and battery committed upon the person of an individual involves both an offence against the public, and an injury to the person upon whom the outrage has been committed. For the former, the person committing the offence is liable to an indictment and a fine for a breach of the peace; for the latter, he may be proceeded against at the suit of the individual, by whom damages may be recovered for the injury sustained. These remedies may both be prosecuted at the same time. The case of a libel is still stronger. Here the libeller is subject to an indictment, and may be proceeded against criminally for the offence against the public peace and morals, and may also be sued by the individual slandered for the injury to his reputation; and if the libel had relation to a judge or court, and implicated his official conduct, or if it concerned any business at the time undergoing a judicial investigation, the libeller might also be proceeded against and punished for the contempt. So in the case under consideration. If there has been committed a public offence, leave it to its appropriate remedy, and let us pursue that by which alone the offence against this House can be redressed.

It is impossible, Mr. Speaker, that these provisions in the Constitution ever meant to apply to cases of this description. They can only refer to public prosecutions for public crimes, which member of this House is the subject; and yet, must be proceeded against in a particular manner, and which draw after them the loss of life, and most generally of character; but they never could be taken to apply to the summary proceedings for a contempt. A contempt is not of itself a crime; it is not so much the act as the circumstances under which it is committed, and the body who is affected by it, that constitutes the contempt.

If these provisions in the Constitution were to be received in the sense contended for, they would apply equally to every tribunal, and courts of justice would, for this reason, be stripped of their power to punish for a contempt. But has it ever been contended that the powers of courts, in this respect, have been less since the adoption of this Constitution than before? Sir, the courts are in the daily exercise of this power, and in no instance that I have heard of has it been contested. Nothing is more common than for courts to exercise this power over their officers, in enforcing a strict performance of their duties—and this, too in cases where there are no other remedies. If a marshal or sheriff collect money under execution process, and refuse to pay it over, the party entitled to receive it may either sue the officer for the amount, or call upon the court to interpose its summary powers to compel the payment. Sir, will gentlemen deny the power of this House to exercise a similar authority over their officers? Suppose, Mr. Speaker, an order of this House be made in a case clearly within the Constitutional compass of its legislative powers, such as directing a disorderly person to be removed from the gallery, or a noise under our windows to be suppressed; suppose, sir, we direct our Sergeant-at-Arms to execute this order, and he refuses—to deny the House the power of proceeding against the officer in such case, as for a contempt, in disobeying the order, would be to render it utterly powerless and imbecile.

Nor, Mr. McLANE said, was the case now under consideration one of a breach of the privilege of an individual member, and could not be affected by the provision in the Constitution, though it should be susceptible of the interpretation which had been given to it. He entertained, however, no doubt of the power of the House to punish any outrage upon the individual members during the continuance of the session. But, said he, the two cases of privilege enumerated in the Constitution are personal; they are the privilege of the person, and are rather an abridgment of the privileges to which he would have been otherwise entitled, according to the usages of Parliament, and to guard against an undue extension of these privileges. They were also necessary for the protection of the member in the recess, and at times when the House could not interpose to afford it. But the privileges of the House, or the body of the members collectively, are nowhere defined in the Constitution; they could not be defined, for they were as numerous as the diversity of human incident, and they were therefore left at large, in the same manner as they existed before the Constitution itself was formed. He could not doubt the House would have a right to interpose in support even of the individual privileges secured by the Constitution, and to cover the person of a member with its shield and protection, where he might be taken from their body by the power of arrest, or the rude hands of violence. This interference might become necessary to our deliberations; the judicial power might not be at hand, and the slow

pace of legal inquiry might not afford a remedy. At any rate a court could not prevent a repetition of the offence; and therefore, unless this House had the power, the privilege would be nugatory, and the proceedings of this body might be totally interrupted. It was not necessary, however, to discuss this question; and he was unwilling to embarrass the subject with anything that did not strictly appertain to it.

Anderson is not charged with a violation of individual privilege, but he is accused of a breach of the privileges of the House—privileges which entitle this body, in its legislative capacity, to deliberate upon the important business before it, unawed by disorder within, and untainted by corruption without. The injury in this instance is not to the individual, Mr. WILLIAMS, but to this body collectively. It is an attempt to poison the source and very fountain-head of our power, and to prostrate the dignity of this House to the infamous purposes of bribery and corruption.

The privileges of the House, as such, consist in the right of protecting its own proceedings, of deliberating in safety, and in preserving the purity of its deliberations from all interruption. Its power consists in enforcing and exercising those privileges. Such a power is inherent in, and incidental to, its very existence, because it is absolutely necessary to the due discharge of its functions. It is the right of self-preservation, which belongs equally to artificial as to natural persons. The right and power of preserving this body from outrage and violence, and of preserving its deliberations incorruptible, is not less than that of an individual to maintain his own self-protection.

Whenever a power is raised for any special objects and purposes, the means of executing the power are necessarily conferred at the same time as indispensably incident to its very existence. It would be absurd to delegate powers, and at the same time deny the means of carrying them into effect.

In the creation of political institutions, the great fundamental objects of their existence only can be enumerated; but the instruments by which these objects are to be accomplished cannot be enumerated, because they cannot be foreseen. When, therefore, the great power of legislation was given, it cannot be supposed that the lesser power of conducting that legislation would have been denied.

The particular means to which the institution must resort, in the performance of its duties, must depend upon circumstances, upon the exigencies of the times, and upon the nature of the duties it may be required to perform, which the clearest foresight could not anticipate. But, as a principle of general natural law, all powers necessary to self-preservation of the body created, and proper in the execution of the trusts confided to it, are incidental, and pass as of course. No Constitutional provision would be requisite to give them, and, unless they were denied in express terms, they would continue inherently in the nature of the body or institution. Must not their necessity have been foreseen? And can it be im-



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aged, sir, that they would not have been given, if it had not been supposed they would belong; of course, to the body created?

It will surely be conceded that a power to protect us in the discharge of our public functions exists somewhere; it cannot be contended that this House was committed to the vicissitudes of the political and moral world without any protection whatsoever. Would any gentleman expose himself to such a situation if this were the case. But, if this House do not possess it, where is it to be found? Where is the power lodged? If not with this House, we should, I fear, look in vain for it elsewhere. We cannot seek it of the courts; they possess no power to punish a contempt offered to this House; it is not an offence against them; it is not an offence against the public; it is not an offence in which damages for individual injury may be recovered; it is not an offence for which an indictment would lie, or for which a civil suit could be instituted. It is a matter exclusively between this House and the individual by whom the act is committed; a court of justice could not interfere; it would be destitute of the means of judging of the nature or extent of the injury. Whether it be a contempt, or in what degree it may interfere with our deliberations, or encroach upon the prerogative of the House, we must be the sole judges, for we alone can know.

Mr. Speaker, was the right of preserving its own order and quiet ever denied to any public body? Nay, sir, it has been admitted in several instances, in the course of this debate, that we have the power to suppress noise and disorder, whether in or out of the House; but if we possess the power to remove these unimportant obstacles, it must be allowed us to guard against the approaches of vice and corruption. Give me leave to say, sir, that the power in such cases is even more necessary than in any other. If, sir, the liberties of the citizens are to be endangered from an abuse of our powers, it will be brought about by the artifices of corruption, which makes its way through the dark and circuitous paths of vice, and seldom dares the broad face of power.

Upon this House, Mr. Speaker, has been devolved the important duty of honestly performing its share of the business of legislation. We are the immediate depositories of the power and the rights of the people, and purity of legislation is our first and great duty. Anything which has a tendency to corrupt or pollute our deliberations is not only subversive of the rights of the citizen, but destructive of all confidence in this assembly. Representing, as we do, the American nation, we cannot respect them without respecting ourselves.

It is admitted that we have the power of superintending the conduct of the members of our own body, and may punish, or even expel them for disorderly conduct. This, to be sure, is a Constitutional power; because, without this provision, if we could have exercised the power at all, it would have been with fewer restrictions than the Constitution has imposed. But, sir, it

is as incumbent upon this body to preserve its dignity, by guarding the conduct of others in relation to it, as in regulating that of its own members; it is not less liable to the assaults of pollution from without, than of disorder within its walls. Sir, we are responsible to this nation for the performance of these important duties, and for the protection of our deliberative character; if we debase it ourselves, or suffer others to do so, we are guilty of a violation of our trust.

This power of the House, then, Mr. Speaker, is purely an incidental power, derived from an inherent right to defend its own existence, founded in a principle of self-preservation. It is not, as has been supposed by our adversaries, any part of the power of legislation, but an incident to that power. This doctrine, Mr. Speaker, is all-important in this discussion; for it is in this that the great error of gentlemen, who deny the power, has taken root. They first consider it a part of legislative power, and then agree that, inasmuch as it is not among the enumerated powers in the Constitution, it is not possessed. Sir, we are not now proceeding in our legislative capacity in the performance of our share of any object designated in the Constitution; but we are about to remove out of our way a nuisance which interrupts our peace, and prevents us from faithfully performing those duties. It is, therefore, wholly immaterial what may be the objects of our legislative power, specified in the Constitution, or in what degree they are limited, since the right to effect those actually delegated, whether small or great, would be the same. The degree or extent of the legislative powers cannot affect the right of exercising them; if the House possesses any legislative power at all, it must possess the means of protecting that power, whatever it may be.

Our power in this respect, Mr. Speaker, is referable to the same great common source whence all other bodies and functionaries derive it—from which it is derived by courts of justice and the Legislature of the individual States, to whom it is admitted to belong. Courts of justice do not exercise the power by virtue of legislation; they possess no legislative power, and no instance can be given in which they ever have asked of any Legislature to confer it. Besides, sir, an act of legislation is the act of both Houses of Congress and the President, or a Constitutional majority of both Houses; but the power now proposed to be exercised is on the part of this House alone, and properly too, for neither of the other branches has any concern with it.

The State Legislatures exercise the same power, not as an act of legislation, but as an incidental right; not because their powers are unlimited and supreme, because they are neither. They possess only limited powers; they are limited by their own written State constitutions, and they are limited by the Constitution and laws of the United States, to which they are subservient. Sir, they exercise it as a judicial act of that branch of the Legislature whose privileges are invaded, and it would be preposterous to contend that the House of Representatives possess less means to

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carry into effect the powers delegated to them, than the same branch of any State Legislature would possess to execute the objects of their trust. This power, then, Mr. Speaker, being thus deduced, it will be found to be both reasonable and safe, and circumscribed in its extent by the reasons and principles in which it is founded; thus will be obviated one of the arguments which has been pressed with great vehemence upon this occasion. He alluded to the observation which was first made by the honorable gentleman from Kentucky, (Mr. ANDERSON,) and since often repeated in debate, that this power was indefinite, and, if exercised for a day, it might be for a year, or any greater length of time. But this power to punish for a contempt, being a power for our own protection, can only be exercised so long as we are in danger; founded in the necessity of our self-preservation, in the discharge of our official duties in this body, it would cease to be exercised when the body ceased to perform its functions, and, therefore, could never be exercised in the recess of Congress, nor could any imprisonment be extended beyond the duration of the session. Few instances would occur to render it necessary to extend the power so far; there could be no disposition upon the part of the House to abuse it, and if a case really occurred to render its exercise absolutely indispensable, it would be worse than weakness itself if it did not possess it. The same answer may be given to all the imaginary evils which gentlemen have suggested in bringing persons from the most remote parts of the United States for insults offered to the Representative in the recess of Congress.

If, then, Mr. Speaker, the power of the House to punish for a contempt be established, as I apprehend it is, the exercise of that power must always be a matter of sound discretion, to be determined by this House, in reference to the particular case. What does or does not amount to a contempt, will always be a proper subject of deliberation; and it is certainly not difficult to imagine many cases in which it would, no doubt, be improper for the House to exercise it, but to prove the existence of the power in one case, it is not necessary to show that the House possesses it in all cases; if it possess it in a case proper for its interference, it is enough. In this view of the subject, Mr. Speaker, it becomes an important question whether it is proper for the House to exercise the power in the case now before them?

Upon this part of the case, Mr. McCL said, it was important to recur to the distinction between the individual member and body of members collectively; with the former he had at present no concern; the insult, in this instance, had been offered to the House, through its authorized official organ, the Committee of Claims, and he could not well conceive of one of greater enormity or a fouler complexion. This vile and infamous attempt to bribe was not made to Mr. Williams in his individual capacity, as a member of this House, to receive his single vote; though, if this had been all, it would, in my opinion, have been a gross contempt of the House; but it was

made upon him as a public functionary of the House, in relation to his official duty as chairman of the committee; it was intended to pervert the deliberations of that committee to an act of fraud and injustice, through which pollution would have flowed to this House. Sir, this House had referred a part of its own power and duties to this committee, to be prepared and digested for our consideration; and this committee, in the discharge of these powers, bear about with them the powers and presence of the House; their deliberations are, in fact, the deliberations of the House in a different form; to this committee is referred the very business of John Anderson, and he attempts to lure this House into the commission of a breach of its Constitutional duties, by means of a bribe. It was the power and deliberations of the House which it was designed to subvert, and was made in their constructive, if not their real, presence. Suppose, sir, the House had resolved itself into a Committee of the Whole upon the claims of John Anderson, and that, during our deliberations, he had entered the door of the hall, and laid his infamous proposition upon the desk of your Clerk, or thrown it into the lap of your chairman; would this not have been such a contempt for which we could have punished? Sir, it is not less so because it was made to the Committee of Claims, to whom the subject was referred, with the same powers as could have been confided to the Committee of the Whole. Nay, sir, it poured pollution into the very source of our legislation upon this subject. If the contempt be as great, the reasons for noticing it are stronger than if it had been committed in any other manner; it is through such a channel, if in any, that it would be possible to contaminate the proceedings of this House. Few persons, however depraved, possess means to hire, by bribe, a sufficient number of individual members to their purpose; and there are still fewer who would pursue a more open course, more exposed to detection; but if they can find your power concentrated in the hands of a few, and these few commanding the confidence of the House, then, and then only, will they be likely to attempt their purposes. Mr. Speaker, it is not because I suppose any member of this House is accessible by such means, that I say the danger becomes greater; the high-minded honorable conduct of the chairman in this instance, is a sure pledge of the fate which awaits any attempt upon the integrity of this body. But, sir, the insult is not the less because it is repelled; and the repetition of the indignity is the evil to be prevented. The offer of a bribe to a man who was capable of receiving it, would be no indignity to him. Sir, can any man offer a higher indignity to this House, or meditate a more serious blow upon its deliberations, than to suppose its members capable of receiving a bribe, and to make that offer in direct unequivocal terms? And, sir, shall we suffer it to pass without its merited punishment? Mr. Speaker, must we stand by, and see the torrent of corruption breaking loose from its mounds, and rolling through this House, without the pow-

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er to check its progress? Shall we behold the mercenary knave entering your committee rooms, purse in hand, and not arrest his arm? Will we allow bribery and corruption to lurk about our doors, and not drive them thence? And shall we suffer the gentlemen of our committees to be assailed by their insolence, without shielding them with the power and authority of this House?

Sir, if ever there was a proper case for the interposition of the power, it is the one before the House. If we do not exercise it in this instance, the dignity of this body is prostrated, and, in future, we must not only arm the members of this House with virtue to spurn the offer, but with physical force to punish the insult. Sir, it is the duty of this House to do it for them; and I hope, on the present occasion, they will discharge it.

But, Mr. Speaker, some gentlemen tell us, we should first legislate; pass a law, say they, and then you can punish; and they even say it is our fault that this has not been done before. I ask, sir, why pass a law? To give us the power? The power must pre-exist the law, or the law would be void. Gentlemen say this House has no power to punish for a contempt, because it is not given by the Constitution; then surely, sir, the power to pass a law for that purpose is not given. Here, indeed, a case might be made to meet the Constitutional objection; the objects of our legislative power being limited, we could exercise no others. But, sir, the power being incidental, it must exist without the law, and could not be varied by any act of legislation which could be passed. It is a power founded in the eternal principles of self-preservation and self-protection, and no law could either enlarge or diminish its extent; nor, sir, could a law operate even to define the punishment, since, as I have already shown, this is defined by the very nature of the power itself. Why, then, I repeat, sir, pass a law? It could only serve as the rule of our own conduct, with which no other person could have any possible concern. Sir, I doubt very much whether the Senate would not send us back such a law, as tending to establish a principle subversive of their own powers of self-preservation.

Some gentlemen have also said that we cannot proceed to punish for a contempt, without having previously established some rule upon the subject, under the power given in the Constitution, to make all necessary rules for our own proceedings. But, sir, these rules, in giving power, would even be less than a law; and if it be admitted that we could proceed under such a rule, it is conclusive that the power was possessed independent of it. Sir, the nature of a rule is to prescribe merely the course which we will be willing to pursue in the execution of our powers, and, if this be established, either by a written rule or by long usage, the end is answered. Give me leave, then, Mr. Speaker, to inquire if there does not now exist such a rule? Sir, what is the rule of '96? Then the House exercised a similar power; and it being the first occasion for the exercise of the power, they prescribed a rule at the

time, which has been adhered to in all subsequent times.

When we consider, Mr. Speaker, the men by whom, and the time at which, this rule was adopted, it deserves much more consideration than an ordinary rule of this House. Sir, when this rule and this precedent was established, the General Government had but just risen into life; the apprehensions of the powers which had been delegated to it were yet active; the jealousy on the part of the State governments was in full vigor; and none of those passions which had been excited in the course of the struggle through which this great instrument had to pass, had subsided. Many of those men who assisted in exercising this power on that occasion, had contributed their share in forming the Constitution; by them it had been sifted, either in the convention or in the States, section by section, and they not only knew what power it meant to confer, but what power it would be dangerous to give under it. In such a time, under such feelings, and by such men, was this rule adopted; and I hesitate not to say, that to my mind it comes clothed with the highest authority.

But, it is said, sir, that John Anderson has been arrested without an oath, and that he ought, therefore, to be discharged. I will freely confess that this is the only part of the subject upon which I have had any difficulty; and I will not disguise from the House that I at first entertained very great doubts of the propriety of the course we have pursued. I am now perfectly satisfied that in this case no oath was necessary, but that, if it were, it is not now a good ground to authorize his discharge.

Sir, the provision in the Constitution, upon which this objection is founded, can have no reference to a case of this description; it relates to the case of an arrest, upon the information of an individual, upon the suspicion of a crime, for which the party is to undergo a trial by jury, or suffer the punishment incident to such offences, and the oath is required in aid of probable cause only; it is designed to prevent justices from issuing warrants upon slight grounds, or where there does not exist substantial proof that the party is liable to arrest. But whenever the proof is plenary, either in the knowledge of the party issuing the warrant or from facts indubitable, an oath is not necessary. Sir, there are many cases in which arrests are made without any warrant at all, and it is the duty of conservators of the peace to do so, whenever they believe the ends of justice require it.

Nothing is more common than to arrest individuals under process, in civil suits, without oath; and it is done upon the principle that the Constitutional provision relates exclusively to the cases of crimes or offences against the Republic.

But, Mr. Speaker, this objection does not go to our power, nor does it deny the propriety of exercising it in this particular case, but merely relates to the irregularity of its exercise. But, sir, if it has been shown that the present is a case in which the power should be exercised, then,

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though the objection might be good against the arrest, it is no reason why the House should not now detain the prisoner. It does not follow, because the arrest was illegal, that therefore the party should be discharged; for notwithstanding the illegality of the arrest, if the House, upon an inquiry, should be satisfied that the individual is guilty, they will detain and proceed to punish him. Mr. Speaker, this is not only a sound principle of law, but it is the practice in every part of our country. Suppose a man arrested and committed by a justice of the peace, without oath, and is afterwards taken before a judge upon a habeas corpus; if the judge should be satisfied that there was sufficient ground to detain him, would he remand the prisoner, notwithstanding the original arrest was irregular? Sir, this is necessary to the ends of justice; and if it were otherwise the greatest criminals would be permitted to escape.

Having the power, then, Mr. Speaker, let us bring John Anderson to the bar of this House; if he admits the fact, all difficulty will be removed; if he denies it, we can then proceed to prove it, in legal form, and inflict upon him such a punishment as the high atrocity of his offence may demand.

I am too sensible, Mr. Speaker, of the great indulgence which the House has already extended to me, to trespass any longer upon their time. But, sir, I cannot conclude without reminding gentlemen, that the eyes of this nation are now turned to our conduct, they feel the indignity which has been offered, and they will expect at our hands such a course as will wipe out the insult and prevent its recurrence.

Mr. ALEXANDER SMYTH, of Virginia, said it was with reluctance he rose to address the House; but the question had become very important; on the one hand were the privileges of this House, on the other the rights of a citizen. He would, therefore, request the attention of the House while he delivered his opinion upon the question before it.

He would first notice the objections that had been made to the warrant on which John Anderson had been arrested and brought to the bar of the House. It had been said that the arrest was illegal; because the warrant was not issued on oath or affirmation. Mr. S. said he would call the attention of the House to the fourth article of the amendments to the Constitution, on which that objection rested. It was search warrants that were prohibited to be issued without oath or affirmation. The article declares the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures; that no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. He contended that the article did not extend to warrants issued by a court; that if a grand jury should make a presentment of their own knowledge, of a capital crime, the court would issue a warrant for the apprehension of the offender,

without oath or affirmation; and that case, he said, was similar to the present, where the Speaker had issued his warrant by the order of the House, on satisfactory evidence.

It has been contended, Mr. S. said, that the privileges secured by the fifth and sixth articles of the amendments to the Constitution, will be violated, should we punish Anderson for a contempt of this House. It is therein provided, that none shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury; and that, in all criminal prosecutions, the accused shall enjoy the right to a trial by jury. Mr. S. said the object of those articles was to prevent prosecutions in such cases by information; that the article which requires a presentment or indictment, would not apply to the case of one charged in the federal courts with bribing a judge; for, as the offence was only punishable by fine and imprisonment, it is not such an "infamous crime" as can only be prosecuted by presentment or indictment. And, said Mr. S., these articles have no relation to this case, which is a proceeding against the prisoner for a contempt. All the courts in all the States punish persons for contempts, by fine and imprisonment, at discretion, without an oath; such proceedings are by no means to be regarded as criminal prosecutions, within the meaning of the amendments to the Constitution.

It is contended, said Mr. S., that, as certain privileges of members of both Houses are enumerated in the Constitution, they are entitled to no other privileges, and that the House has no privileges. The privileges enumerated are personal privileges, such as are pleadable in the State courts, or any other courts, and were inserted in the Constitution that they should be so pleadable. The privileges of the House are not defined: it was very proper that they should be left undefined. It would have been dangerous to have attempted to define them; for no human foresight could foresee the various ways in which they might be violated. The dignity and security of Congress requires that the privileges of the two Houses should remain undefined; therefore, each House is left to judge of its own privileges, and to determine what is a contempt against itself.

By the fifth section of the first article of the Constitution, each House is the judge of the elections, returns, and qualifications, of its own members—a majority to constitute a quorum—a smaller number may compel the attendance of absent members, in such manner and under such penalties as each House may provide. Each House may determine the rules of its proceedings—punish its members for disorderly behaviour—and two-thirds may expel a member. By the second section of the same article, the House of Representatives may choose its own officers. The House of Representatives is a court, having authority to judge the Representatives of the people—having authority to send for any one of them—to arrest him at the distance of a thousand miles—to bring him here in chains—and to imprison him. What further punishments and penalties they might in-

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flict, I will not inquire. The House is a court, with authority to try certain causes, to arrest certain persons, and to inflict certain punishments and penalties; in other words, it is a court of limited jurisdiction, as all courts are. Why shall this court, the greatest of all courts, be denied the power possessed by every other court, of protecting its authority by punishing contempts? Shall a member of this House be punishable for disorderly conduct, and every ruffian who may approach it be at full liberty to behave as disorderly as he pleases? The power to punish a member was expressly given, because otherwise the House might not have possessed it, as a court cannot punish one of its members. The right to punish others for contempts it was not necessary to give; it resulted from the powers expressly given.

Why is it that this power to punish for contempt, by fine and imprisonment, is given to every court, even to those of the most limited jurisdiction? It is because the administration of justice should be sacred. That is the chief end of government; and if that fails, all the other powers of government are useless. Therefore the court, however limited its jurisdiction, is not under the necessity of depending on any other body of men for protection. If you were to erect a court for the regulation of the markets in the City of Washington, it would possess this power, although not expressly given. The power of protection must be present, and its execution instantaneous, or it cannot be effectual.

The House of Representatives is a court, created by the Constitution and the people, and has, as incidental to its creation, the power possessed by all other courts of protecting itself from interruption and insult. Every reason in favor of the possession of this power by a court applies with equal force in favor of the claim of the like power by a legislative body. As the court cannot hear and determine without order and safety, so the legislative body cannot deliberate and decide without order and safety. The creation of a legislative body alone confers privileges on the body. The power to legislate includes the right to deliberate, to debate freely, under no restraint, fear, or influence. This perfect freedom cannot exist without the right of self-protection. The legislative power being expressly given, the means of legislation—the power to execute the power expressly given—is also given: it is an incidental power. Hence, the House has the right to preserve the liberty, the safety, of its members, and their minds from undue influence.

The House must have protection: to that end it must be able to protect itself. A free Legislature cannot exist without the power of protecting itself. To look to the Executive or the Judiciary for protection, would be for the superior power to look for protection to the inferior. Congress prescribes the other departments their rule of action, and is unquestionably the supreme power of the nation. If protection to the Legislature is afforded by the Executive or Judiciary, it must be by law. But Congress had a right to protection before the law existed, before the Ju-

diary existed, and before the President had any legal power. Congress then had a right to protect itself; it still has the same right.

The House of Representatives possesses the same power to punish contempts that the British House of Commons does, and for the same reason, not because it is the common law of England, but because reason (the basis of the common law, that gave this power to the House of Commons, as incidental to their legislative power) gives it also to this House. Every State Assembly has the same power, and several of them have exercised it. But it is said this power is derived from the common law, which is not the law of the Federal Government. It is true, the courts of the United States cannot take cognizance of crimes which exist only at the common law, because their jurisdiction is specially limited to certain described cases, and to cases arising under the Constitution and laws of the United States. But the common law was the law of those who framed the Constitution—of those who adopted it—and it is in force here. It was the law of Maryland, and is in force in the District of Columbia.

Some protecting power seems to have been conceded to the House by all those who have opposed the exercise of it in John Anderson's case. One gentleman allows that we have power to clear the galleries, because our rules authorize it. Then the House must have possessed the power before the passage of the rule, or else the rule could not have been passed. Does the Constitution confine our power to the galleries? Does reason confine our power to the galleries? Another gentleman will extend our authority as far from the House as a stone can be thrown: he will preserve the windows of the House. Another gentleman will go as far as the *purlieus* of the House. Why not go as far as the lodging-rooms of the members? Why not extend it as far as the bounds of the District of Columbia? One gentleman would punish the offender, if a member, as he came to the House, should he be so disabled as to be incapable of attending. The gentleman did not inform us that he would punish for less than a total disability. Would not the gentleman agree to punish the offender who should shoot at a member as he came to the House, with intention to prevent the member from voting on a particular question, even although he should escape unhurt?

It seems then to be admitted by all that the House has some protecting power: we differ principally as to the extent of the power. If the House has any protecting power, it is not because it is specially given, for none is specially given; it is because the power is essential. Then the House has some protecting power, because it is essential; then it has *all* the protecting power that is essential. The power which we contend for is deemed essential, because, unless a legislative body can protect itself against assaults, interruptions, and insults, it cannot act.

It has been said we have hired a house, and may turn out an intruder. The house is hired

by the United States. Are we really without any authority here but that of tenants at will?

It has been objected that the privileges of the House are not defined, either by the Constitution or by the laws. I answer, it would have been dangerous to have defined those privileges by the Constitution, and they cannot be defined by law. A law cannot confer the power that we seek to exercise. Congress cannot by law give any power to Congress. This I suppose to be evident. Neither can Congress pass a law that the House of Representatives can carry into execution. If you pass a law, that must be for carrying into execution some of the enumerated powers of Congress, the Government, or of some department or officer of the Government. Therefore, no law can be passed for carrying into execution the powers of this House. No law can be passed prescribing how this House shall judge of elections; how it shall compel the attendance of members; or what penalties or punishments it shall inflict on disorderly members. The Constitution leaves all such questions to be decided by each House respectively. Each House shall determine the rules of its proceedings.

If you pass a law on the subject of the privileges of the House, you cannot carry it into execution. The Judiciary must judge of it—the Executive officers must execute it. By attempting to pass a law on the subject, you submit the privileges of this House to the judgment of the Senate, and the privileges of each House to the opinion of the President. The Judiciary can only redress wrongs long after they are committed; the House requires present protection, and it would be extremely unjust to intrust the privileges of the House to the Judiciary.

It is now twenty-two years, said Mr. S., since the House of Representatives, sitting at Philadelphia, decided in *Randall's* case, by a majority of near five to one, to punish a person who attempted to bribe a member at his lodgings. That was a case in point, and entitled to the greater weight as no party considerations entered into the decision, and an equal number of members of both parties were in the majority. It is also worthy of remark, that that decision took place at Philadelphia, where the Congress did not possess that exclusive right of legislation which it possesses here. The authority of that case has not been shaken, but has been repeatedly confirmed. In some subsequent cases no punishment was inflicted; but the right to punish for contempts was asserted, if the facts require it.

I have heard it said that precedents cannot settle a Constitutional question. Such questions are legal questions, and, when frequently decided the same way, should be regarded as settled, as the law should become certain.

Let us see if the offence of John Anderson is not a contempt against this House, and one of the most atrocious kind. What is a contempt? An insult, I presume—a want of due respect. Anderson has seen the gentleman from North Carolina selected as Chairman of the Committee of Claims, who are to examine and report on all demands

against the Treasury; selected to fill a station, of all others, requiring to be filled by a man of integrity and capacity. Anderson offers to this gentleman a bribe of five hundred dollars. Is not this tantamount to saying, that there is not a man of integrity in the House of Representatives? Is it not equal to an express affirmation that there is not a member of the House who cannot be bribed with five hundred dollars, to betray the interests of his country? What contempt could be offered to the House greater than this? None greater could be offered. Every member should feel this insult.

Had Anderson committed a hundred murders, or robbed a hundred temples, the offence which he would have committed against society would have been less than that which he has attempted. He has attempted to corrupt this House; to render the Congress of the United States unworthy of their sacred trust, and a disgrace to the nation. The traitor who should advance in arms against this Government, would be justly less odious than he who would attempt, by corruption, to destroy its virtue.

I hope, said Mr. S., the inquiry will proceed, and that we shall inflict on the offender such punishment as we have authority to inflict.

Mr. SETTLE, of North Carolina, said, he was aware that the late hour of the day, and the protracted stage of this debate, made it an unfavorable time for a young member to make his first essay but he hoped the House would pardon him in asking the indulgence of their already wearied and almost exhausted patience for a short time. And while he could not have the presumption to believe he should be able to change the decided opinions of others, he would not, therefore, decline submitting the reasons which would determine his vote on this question; one which he conceived involved the powers of this House to protect itself free in its deliberations, by punishing for contempts, on the one side, and the rights of a citizen on the other.

In that country, said Mr. S., from which we derive some lights in the science of jurisprudence, if not in that of legislation, the courts, from the most limited jurisdiction up to the high court of Parliament, claim and exercise the right, as incidental and inherent, to punish for contempts to their authority. And in this country all, from a justice of the peace, sitting in judgment on the trial of warrants, up to the Supreme Court of the United States; and all legislative bodies, have heretofore claimed and exercised the same. Mr. S. said it seemed to be a correct principle, bottomed on reason and sanctioned by precedents, that all legislative bodies and all courts, either under the constitution of a State or that of the United States; and whether those courts take for the rule of their decision the common or statute law, have, by the act of their creation, the right, *ipso facto*, to protect themselves from violence and indignities, by punishing those acts as contempts to their authority. Mr. S. said, whenever a right is granted or duty enjoined, everything necessary to the fair and perfect enjoyment of



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the right, or to the faithful and honest performance of the duty, is necessarily contained in the grant or injunction, if there be no exceptions clearly and expressly made. He said he would illustrate the correctness of this position, by supposing the ordinary case of contract between two individuals whereby one should grant to the other a part of his land, entirely surrounded by the residue of the tract, and without any agreement as to right of way; the grantee would, by virtue of the grant, have the right to use all necessary means to the perfect enjoyment of the estate granted. Or, he said, if one of our Generals, or other officers, in leading our army to any point to meet an enemy, should, in the discharge of his duty, find it necessary to accelerate the transportation of his troops by opening roads through the territory of the States, and, in the further discharge of his duty, should think it necessary to destroy bridges and ferries, the property of private individuals, it is proper and correct; and his right to do the same will be conceded. He said he did not select these cases for the reason that he had any preference for them to others equally illustrative of the correctness of the position he had taken; and he said it was difficult, if not impossible, to find or imagine a case in which these rights have not uniformly been considered as inherent in all grants of power or interest, and in all injunctions of duty, unless expressly and unequivocally denied.

The framers of our Constitution, with these impressions as firmly fixed on their minds as were the principles of virtue in their hearts, framed the instrument under which we sit; and have thereby given this House a right, not merely from courtesy, but, by the 4th section of the first article of that instrument, enjoined the solemn and important duty on us of forming a separate and independent branch of the Congress of the United States, to meet once a year, to deliberate on the rights and interests of the citizens, and to use our efforts in the passage of laws calculated to protect and secure the same. He said it seemed, then, clearly and necessarily to follow, from this duty imposed on this House by the good people of the United States, that it possessed the right to protect itself in its deliberations free, as well from interruption which might be produced by noise in the gallery, in or about the House, as from any of those effects which might possibly result from attempts to practise on the integrity of its members. But, Mr. S. said, it has been stated that the House does not derive this power to punish for contempts from any clause in the Constitution expressly and specifically giving the same. This, he said, was not denied; and it was equally true that there were many powers which are not expressly given by, but may, notwithstanding, be legitimately exercised under the Constitution. He said that instrument, 1st article, 2d section, gives this House the sole power of impeachment. Can it then be denied the power to send subpoenas for witnesses, and *subpoenas duces tecum* for witnesses and papers, to enable it to exercise this right of orig-

inating impeachments against the delinquent officers of the Government. Again, if the witnesses subpoenaed to appear before you should refuse, condemn your authority, and set you at defiance, I ask if this House has not the authority to attach the witness for his contempt? And, further, if the witness so attached should be rescued from the custody of the Sergeant-at-Arms, if this House has not the power to punish for a contempt to its authority the person so committing the rescue? He said, with due deference to the opinions of others, he was decided in his conviction the House could constitutionally exercise its authority in these instances, in the manner he had just stated; not from any specific grant in the Constitution, but under the authority of a right inseparably connected with, and incidental to the power of this House to originate impeachments.

Exposed and defenceless would be the situation of this House without the power contended for, liable to all the embarrassments which malice or corruption could invent, and if not entirely prevented, greatly obstructed in the discharge of its legislative duties; without this power, your several committees, useful and necessary auxiliaries to this House in the discharge of its duties, would be wholly unprotected; and without this power, your committees who wait on the Chief Executive with resolutions, requesting him to cause to be laid before this House official information on matters deeply affecting the interest of this nation, and requiring legislative interference, might be prevented from executing their duty, and compelled to return to this House by the conduct of some desperate individuals, under the influence of malice or corruption. He said, he would not mention any other case in addition to those already stated by the gentleman from Massachusetts (Mr. HOLMES) demonstrating the exposed and feeble condition in which this House would be placed, and the consequent suspension of public business, without the power to protect itself and punish contempts. He conceded, however finished the powers of the House might be, no circumstances could justify the exercise of any not given expressly, or by fair implication; but the power of self-preservation is so natural, reasonable, and essential to the existence of this body, and so clearly given by the act of its creation, nothing short of an express denial would seem to authorize us in deciding that it does not belong to the House.

Sir, said Mr. S., the power on the part of this House to protect itself, by removing disturbances which are created within the walls of the House and without the walls, is conceded by the supporters of these resolutions; but they limit your power even to remove by the walls of the House, and deny all authority to punish; and to prove the correctness of this position, our attention has been called to that clause in the Constitution, giving to this House the power of punishing its own members, and, with the concurrence of two-thirds, of expelling a member; again, to that clause which privileges Representatives from

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arrest in civil cases, and from being questioned for any speech or debate in the House in any other place; and, further, they say, the power contended for is discretionary, and ought not, therefore, to be exercised. He said, he would leave the arguments, drawn from the first proposition, on the ground on which they had been placed by the conclusive answer given to them by the gentleman from Virginia, (Mr. PINDALL.) That the framers of the Constitution intended to give the power, and to obviate all doubt which might have arisen from the want of an express grant of it to this House, to punish, and even expel, a member possessing the same rights and privileges here with his judges, and not thereby to deny the right of the House to protect itself from the violence and abuse of all others. In relation to the second proposition, he said he could little more than repeat the answer of the gentleman from Massachusetts (Mr. HOLMES) to all the arguments deduced therefrom.

These privileges, said Mr. S., enumerated in the Constitution, are personal, attached to the Representative, and attend him wherever he may be, whether in Washington City, Boston, or New Orleans, and, if their privileges are violated, all courts are bound to accord to the Representative the benefit of his privilege; and they cannot be considered as excluding or disparaging the power of this House to punish for contempts. Mr. S. said, although we had been feelingly and eloquently told this discretionary power was without limitation as to the nature and extent of punishment, and the execution of a citizen would be as legal under its exercise, as would be a reprimand from the House, or imprisonment; he could not but believe there were many limitations marking its extent, independently of the many checks and corrections which this discretion in itself affords. This House cannot, for any offence, under any circumstances, inflict greater punishment than imprisonment during the session; and he hoped the time never would arrive when the boundaries to the powers of this House would be transgressed. Even the tyrant himself, regardless of the ordinary limits of his power, would, in endeavoring to transcend these limitations, find at least an obstacle in the Constitution, denying the power of inflicting cruel and unjust punishments. He asked, wherefore such alarm and apprehension at the discretionary power of this House? Are we strangers to its existence in this country, and have only heard of it, for the first time, in the case of Colonel Anderson? No, sir. The legislative bodies and courts, ever since their first establishment, and justices of the peace, since their first appointment in this country, have been and are now constantly in the exercise of the same. He believed it never had been used oppressively in this country; and while it preserved order and decorum in their bodies, it rather promoted than injured the great cause of civil liberty; and he hoped the power contended for would at all times be used by this House to attain the same objects for

which it is confessedly vested in courts and other legislative bodies.

But, sir, said Mr. S., it has been said, that all the difficulties and embarrassments in which the House would be placed, by the adoption of the principles for which the friends of these resolutions contend, can be remedied. How? he asked; by going before a justice of the peace in the District of Columbia, and entreating him to interfere, with the authority of his power, to protect this House; and it will be done accordingly. Yes, sir, suspend the important business of this House, to go before a justice of the peace, and be bound over as witnesses to the court of which this justice may be a member, to prosecute a contempt to this House! Mr. S. said he could not believe it was the intention of the wise framers of our Constitution to have placed this House in that condition.

He said it was not his intention to reflect, in the slightest degree, on the motives of those from whom he differed in opinion on this question; and although he could not believe with them, in the conclusiveness of their arguments, to deprive this House of the power contended for, he could not but admire the source from which they arose. It is, said he, a virtuous and scrupulous regard for the rights of a citizen; but, believing, as he did, that the power contended for was inherently possessed by the House, clearly derivable from the power which created it, and coeval with its existence; and that the same has not been reserved or taken away, expressly or by implication, he could but so decide; and if, after examining the case of the accused, he be guilty of the offence charged against him, he said he would vote for such punishment as the offence merited, and the power of the House authorized.

Mr. RHEA rose next, to make a motion. It was with reluctance, he said, he attempted to say anything relative to a subject that had already been so ably discussed. He did not expect to offer anything new in the debate that had occupied the House several days. The object he had in view was, that the House should come to a determinate conclusion, and end this debate by changing the form of the proposition contained in the preamble to the resolution under consideration. The present proposition, Mr. R. said, was a negative, at least of a doubtful nature; he therefore would move to amend it by striking out the words "entertaining great doubts of its." If this amendment is made, said he, the proposition will then be affirmative, and the argument on an affirmative proposition. To attempt to prove that the House of Representatives has power in this case, seems like an attempt to prove that the sun now shines. A power to punish for contempts, said Mr. R., necessarily and essentially exists in the House of Representatives, and is an attribute of its being. The House of Representatives is, by the Constitution, the sovereign people of these United States, in their representative capacity; a contempt of this House is, therefore, a contempt of the sovereign people in the aggregate. Strange then, said he, appears the reason-

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ing that denies to this House the power to punish for contempt. The people of the United States ordained and established the Constitution, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty. The Constitution gives existence to the Congress of the United States, of which this House is a co-ordinate branch. And shall this House not have power to do justice to itself for contempts? Shall it not have power to insure its own tranquillity against contemptuous disturbers? Shall it not have power to provide for its own defence against any attempts to violate, by contempts, its rights and privileges? Shall it not have power to secure to itself the liberty of free, pure, and uncorrupt legislation? Let the answers be made, said Mr. R., the conclusion is inevitable. Free, pure, uncorrupt legislation, requires the existence of this power, as an essential attribute.

Mr. BARBOUR, of Virginia, said, he hoped the House would indulge him a short time, whilst he endeavored to answer some few of the most prominent arguments which had been urged on the other side of the question.

He said, that one of the positions which he had taken the other day, in argument, was this, that the Constitution of the United States had accurately defined our privileges, and that the act complained of was not a breach of the privileges thus defined. And how, sir, has it been attempted to drive me from this position? Why, the member from Massachusetts (Mr. HOLMES) has said, that those were the personal privileges of the members; that they were given to them for their protection when out of the House, and when, therefore, the House could not protect them. Sir, an attention to the language of the Constitution, in which these privileges are defined, will show, beyond the possibility of question, that this construction cannot be sustained; for one of them, that is exemption from arrest, is given to members, not only whilst going to and returning from the House, but expressly also during their attendance at its session; thus it was most palpable, that this one, at least, belonged to them, as well in as out of the House. The gentleman had attempted to draw a distinction between the privileges of the members and those of the House; he said, he did not well understand what was meant by this distinction; he thought the House had no other privileges but those which belonged to the members of which it was composed. He thought too that it would not be sufficient to prove privilege; gentlemen must prove power; for what is the question between us? It is, whether the House of Representatives has power to punish an insult offered to one of its members. Now, sir, the very nature and meaning of privileges imply only immunity, or safety to the person who possesses it; thus, exemption from arrest, exemption from question elsewhere, for anything said in debate, are privileges; that is, they are immunities and protections; but they are of a character utterly distinct from that active principle of pow-

er, which must be proven on the other side to justify this House in inflicting punishment for any insult, either to one of its members or to itself.

We are then brought to the real question in this case—which is, has the House the power contended for or not? He had attempted the other day to show, that the powers of this House were marked out, and that the one contended for was not amongst them. Gentlemen were constrained to admit, that it was not expressly given, but continued to press the doctrine of inherent powers.

What, sir, is meant by this term inherent? If by it be meant any powers independent of the Constitution, then, said he, I utterly deny the proposition. Before that instrument, this House did not exist; of consequence, the same creative instrument which called it into existence, imparted to it its powers, and prescribed to it the rules of its action. But, say gentlemen, the mere creation of this House implied certain powers as necessarily incident, and without which it could not fulfil the purposes of its institution. He said, he had indulged, the other day, in a style of argument, which, if he might be allowed the expression, he would call interrogative. He had then asked, and he now repeated the question, what powers could be more incident to this House than those of choosing its own Speaker, and determining its rules of proceeding? And yet, as he had said, these were expressly given. He was satisfied that these powers were of that nature, which gentlemen would call incident; if they were, he asked, (and he hoped he should receive an answer,) why some of the incidental or adherent powers were given, and others were not given, but were left to be sought for by means of implication and doubtful construction? But, say gentlemen, a legislative body, without the means of self-defence, without the powers of self-protection, is an anomaly in the political world; and we are asked, do we mean to deny to the Congress of the United States the possession of those powers? He said, that he denied them to the extent contended for, and he denied the exercise of them in the manner contended for; that, in his argument the other day, he had not discussed the right to legislate upon the subjects of contempts and outrages committed against the House; it was not the question before us. The question in this particular case is, not whether we have a right to pass a law upon the subject, but, whether we have now a right to act upon it; not whether the two Houses, by a legislative act, may prescribe a rule; but, whether this House may, in this case, act by itself, upon some rule alleged to be already in existence. Besides, one of the resolutions now before us, proposes to inquire, by the Judiciary Committee, into the propriety of legislating on the subject. But, since that question was now brought directly to our view, he would say, that he did not deny the power of Congress to punish by law, any disturbance or force, of any kind, which actually interrupted their legislative proceedings; and this would furnish, he thought, a complete answer to all the extreme cases which had been put by gentlemen;

such as throwing stones against the windows, &c.; in short, it would embrace the whole range of interruption to the progress of our business, from the outrage or violence of a single individual, up to the case of our being menaced with an armed force. Thus, it would satisfactorily appear, that Congress was covered, by the Constitution, with all the armor necessary for its defence. If the act done amounted to actual violence and interruption of our legislative proceedings, it might be punished by law; if it fell short of that, and came within the range of a mere contempt to the House, it could not be punished, nor was it necessary to our defence that it should be. The difference then between the gentlemen and himself was this: on their side, the power to punish for a mere contempt was claimed; on his part, that power was denied in any shape; on their side, the power to punish actual interruptions to legislation, was claimed as being within the competency of this House alone; on his part, such a power was admitted, if exercised in the shape of a law, and confined to such occurrences as actually impeded the progress of business.

But the gentleman from New York (Mr. STORRS) supposes that he has found a conclusive argument upon this subject, by referring to the power to exercise exclusive legislation over the ten miles square. Now, sir, what is the power of legislation? It imports, by the very force of the term, the power of making laws. If, then, we were now inquiring into our power of making a law upon the subject, the gentleman's argument would, at least, be applicable in its nature; though, even in that point of view, he would only be able to prove, that we had a right to punish bribery, as a violation of morality, as a crime within itself; but not as a contempt to this House, or as a breach of its privileges. But, said Mr. B., our power to legislate is not the question; the case before us is not characterized by any one circumstance which defines legislation. To legislate was, as he had before said, to declare by law, passed with the consent of the two Houses, an act, thereafter committed, to be an offence; and that law was to be applied by another tribunal to the particular case; but this is a proceeding, with a view to inflict punishment upon an individual, by the judgment of this House, for an act already committed, and which, therefore, must now be an offence. The character, then, in which this House must act, if it act at all in this case, is judicial. The argument of the gentleman, then, amounted, in substance, to this, that because Congress had power to make the act in question an offence punishable by law, therefore, this House has now a right to punish that act without such law. It was not sufficient for the purpose of the gentleman's argument to show a power to legislate; he must go further, and show that the power had been exercised by the passage of a law; that the act had been made a punishable offence, and that we were constituted the tribunal to pass upon it.

But the gentleman has endeavored to derive

some advantage from this argument, by presenting it in another view, which he would now examine. That gentleman had said that, as there was a grant of exclusive legislation, all the incidents of legislation passed with it, and he contended that the power in each House to punish a contempt was one of those incidents. Sir, said Mr. B., whatever powers the two Houses may have, it is not in this part of the Constitution that we are to seek for them. Upon examination it will be found that it is one of the clauses of the eighth section, the whole object of which is to enumerate the powers of Congress. It will be found, also, that a previous section of the same article has for its object the enumeration of the powers of each House respectively. The Houses then are created, and their powers defined, in a previous part of the Constitution. He thought it, therefore, a singular position to assume, that though the Constitution contained a section purporting to define their powers, yet we were not to seek for them there, but in a section, or the clause of one, which purported to define not the powers of the Houses, but of Congress, composed of the two Houses. As well might the gentleman attempt to maintain the converse of the proposition, that when we wish to know the powers of Congress, we must look to the section which defines those of the respective Houses. To test this reasoning, let us suppose that this clause had been omitted; would this House, then, have had the power contended for? If it would not, there is an end of the doctrine of inherent powers; if it would, then this clause was not necessary to impart it. He thought the true doctrine was, that it did not possess such a power, either inherently, or by any proper construction of this clause. After this view of the gentleman's argument, he would not say, as that gentleman had said of him, that he had placed him in a situation from which there was no escape; but, with deference, he would submit it to the House, whether that gentleman or himself was in this perilous situation.

Another gentleman had admitted that the power must be derived from the Constitution, and that it was not expressly granted. He attempted, however, to derive it by this process of reasoning: a legislative body, says he, is created, and, by the mere act of its creation, the power in question belongs to it, as one of those which, according to the usage and understanding of the country, belong to other legislative bodies. The gentleman illustrated his meaning by stating, that the Constitution, in speaking of a jury, did not define its character; and that after having fixed what should be a quorum of this House, it did not direct that a majority should decide the questions before it; that, therefore, we must suppose that it intended to refer to, and adopt what was the understanding and usage of the country in both these cases. The answer, he thought, was clearly this: in both the cases stated, the understanding and usage of the country were referred to, only to fix the meaning of a term, or to settle the mode in which a body which was con-

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stituted should act; thus, in the case of the jury, we understand, by the established custom of the country, that the word means twelve men, who must be unanimous in their verdict; in the other case, we understand, that unless where a different number is expressly required, a majority of the legislative body is to decide; but, in neither of these cases, do usage and understanding give a power; they only define the manner in which a power given is to be exercised. But the effect of the reference made to them by the gentleman would be to give a new power—to give it, too, in addition to a specified enumeration of powers. The gentleman's argument would have had more application to the case, if the Constitution had merely created the legislative body, and gone no further; but where itself defines the powers of the two Houses, he could not think that it intended to refer to any other standard for them but itself.

Much reliance had been placed, in the course of the debate, upon the circumstance that the courts and Legislatures of the several States, were in the habit of exercising the power of punishing for contempts. Mistaken analogy was one of the most fruitful sources of error in human reasoning. If we set out upon wrong principles, our reasoning, however correct it may be in relation to our premises, must conduct us to wrong conclusions. The present case, he thought, was a strong exemplification of this remark. It had already been correctly stated, that the power which the State courts exercised was derived from the common law; and as that did not exist, as applicable to the United States, he thought that argument conclusive to prove that no analogy could be derived from them. In relation to the State Legislatures, besides the forcible arguments which had been urged by others, and which he would not repeat, he would ask whether we were sufficiently informed of their constitutions, to say that they were framed like that of the United States? He would ask, for instance, did they define the privileges of the members? Did they specially enumerate certain powers as belonging to the respective Houses? If they did not, then they were not sources from which any reasoning could be drawn, as applicable to the two Houses of Congress. Besides, sir, upon gentlemen's own principle, has any one informed us that, in a case like the present, any State Legislature has punished for a contempt? He said that he had not had an opportunity of examining this question in relation to the British Parliament, in a manner satisfactory to himself, but he would observe that *Junius* contended most earnestly that the rightful power of the House of Commons to punish for contempts, did not extend further than to those which fell out immediately in their view, or directly interrupted their proceedings. He knew that *Junius* was a partisan writer; but he referred to the celebrated Attorney General, Mr. Noye, and to Sir Edward Coke, as going a good way to support him in his position. He said he should be glad to hear gentlemen say whether the House could punish for a contempt,

even in a case of acknowledged breach of privilege, as for an arrest of a member; he thought himself that it could not. He would ask gentlemen, too, how their doctrine would stand with the Constitutional provision in relation to the habeas corpus? If the doctrine be correct, that for every contempt to this House a person is liable to be committed; and if, as gentlemen are obliged to contend, we are the sole judges of that contempt, then the writ of habeas corpus, in relation to contempt to this House can never be effectual, because that can only deliver persons illegally confined; but, according to the argument of gentlemen, the confinement under the warrant of the Speaker of this House must always be legal, for we have a right to commit for a contempt, and we are the sole judges of it. Mr. B. said he could have wished to have replied much more at large to the various arguments which had been urged on the other side of the question, but the length to which the discussion had been protracted, as well as the late hour of the day, admonished him that he ought not to trespass longer upon the patience of the House.

The debate was continued during the remainder of the sitting by Messrs. LOWNDES and LIVERMORE.

#### TUESDAY, January 13.

Mr. COMSTOCK presented a petition of Doctor James Smith, agent for the dissemination of the vaccine matter, praying that further measures may be adopted to insure the free supply of vaccine matter to every citizen of the United States; and that additional pecuniary aid may be afforded, so as to enable him to keep up an uninterrupted supply of the said matter; which was read and referred to a select committee; and, Messrs. COMSTOCK, FLOYD, HOGG, ABBOTT, and HALL, were appointed the committee.

The SPEAKER presented a petition of the President and Directors of the Bank of the United States, praying that the act of incorporation of the said bank may be so amended as to authorize the president and cashier of its several offices of discount and deposit to sign and countersign the notes to be issued at said offices; which was referred to a select committee; and Messrs. SERGEANT, SMITH, of Maryland, TALLMADGE, ROBERTSON, of Kentucky, and TERRILL, were appointed the committee.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act allowing compensation to the members of the Senate and House of Representatives, and the Delegates from Territories, and to repeal all other laws upon that subject," with an amendment; in which they ask the concurrence of this House.

The said message was read and ordered to lie on the table.

Mr. ROBERTSON, of Louisiana, from the Committee on the Public Lands, made a report on the petition of sundry emigrants from Switzerland, which was read and the resolution therein

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contained was concurred in by the House, as follows:

*Resolved*, That the prayer of the petitioners ought not to be granted.

A Message, accompanied by sundry documents, was received from the President of the United States, communicating to Congress the fact of the United States forces having taken possession of Amelia Island.—Ordered to lie on the table.

#### MILITARY PENSIONS.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill providing for half-pay pensions, invalid pensioners, and for other purposes; which was twice read by its title and committed.

[The provisions of this bill are substantially the following:

The first section gives to the Secretary of War the power of placing upon the pension list all officers and soldiers of the Revolutionary war, who are entitled to such by the provisions of the act making provision on this subject, in the year 1816. Rules and regulations in force, or hereafter to be made and put in force, as to the admission of the officers and soldiers of the militia, and the regular soldiers, on the pension roll of the United States, are made applicable to the invalids of the Revolution and of the Indian wars, placing all entitled to pensions on an equality.

Section second extends the half-pay pensions of five years to the widows and orphans of the officers and soldiers of the militia, and others, now entitled by law, for a further term of five additional years, which will make the pension, if adopted, equal to half-pay pensions to widows and orphans of ten years.

Section third provides half-pay pensions, for the term of five years, for the widows of the soldiers of the regular army, who were killed in battle, or who died in the service, during the late war.

Section fourth extends half-pay pensions to all such widows as lost their husbands after their return home from the military service of the United States, provided they died within six months after such return, and of diseases contracted in the service.

By the fifth section, indigent mothers, who have lost an only son in the military service of the United States, provided such son died without wife or children, are to be provided for.

Section sixth provides that every widow, whose husband was killed in battle, or died in the service of his country, during the Revolutionary war, shall receive a half-pay pension for five years.]

#### JUDICIAL FEES.

Mr. HOPKINSON moved the adoption of the following resolution:

*Resolved*, That the Committee on the Judiciary be instructed to prepare and report a bill of fees for the officers of the United States, in the courts of the United States.

Mr. HOPKINSON observed, in offering this resolution, that it was well known there was no uniform rule on this subject in the different courts of the United States. It was not, however, to establish uniformity only, but something like justice also, that he offered this motion: for, if his information was correct, there were in some of the States impositions practised which were a

disgrace to the United States. In one which he would mention, in the State of New York, a degree of outrageous imposition existed which would shock every member who heard him. In that State, Mr. H. said, if he was truly informed, there had been one thousand prosecutions against retailers of spirit, for not taking out their licenses; upon each of these cases, untried, the fees of the District Attorney were sixty dollars, amounting to the sum of sixty thousand dollars in the whole. These were the fees of the District Attorney alone; but including those of the Marshal and Clerk, each case was burdened with about one hundred and forty dollars costs. If such practices were legal, said Mr. H., they ought to be no longer so: if they are illegal, they ought to be suppressed.

The resolution was agreed to, *nem. con.*

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The House resumed the consideration of this subject.

Mr. SERGEANT delivered his sentiments at large in relation thereto.

Mr. SPENCER rose for the purpose of withdrawing the preamble altogether, and leaving the resolutions alone for consideration. His motive for this course, he said, was to baffle the object of Mr. RHEA's motion, which proposed to change the preamble from a negative to an affirmative proposition. It would be recollected, Mr. S. remarked, when the subject was referred to a committee, it was that they might make a report on the powers of the House, in this case, and that, under that expectation, he had voted for the reference. The committee, however, had simply recommended the examination of the accused, and a mode to be observed in the investigation. Since, then, the friends of this course had not submitted any affirmative motion respecting the powers of the House to proceed in the course recommended, with a view of bringing that point forward for previous consideration and decision, he had offered the preamble and resolutions now before them. He wished not now to change the character of the proposition under discussion, and, to prevent it, he begged leave to withdraw the preamble.

Mr. TALLMADGE, of New York, then rose and said, it afforded him great pleasure to witness the candor and the frankness of the gentleman on this occasion. It was characteristic of his honorable colleague, (Mr. SPENCER,) from New York. He was gratified to see him thus promptly withdraw any words from the proposed resolutions which tended to prevent a full and fair discussion of the principles in controversy. The honorable gentlemen from Kentucky and from Virginia, (Mr. ANDERSON and Mr. BARBOUR,) who had become conspicuous by their arguments against the power of this House in the case under consideration, had also fairly met the controversy, and had denied, with great apparent success, the right of this House to maintain its jurisdiction in cases of contempts and breaches of its privileges. The advocates of the present resolution to discharge



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John Anderson, have boldly and fairly maintained the controversy; they have said, those who allege that this House possess the power and the right hold the affirmative, and are called upon to maintain the proposition, and show the title for the exercise of this right. Sir, said Mr. T., while our opponents have thus boldly called us into the field of argument, we desire it may be expressly understood, that the friends of the supposed power in this House disdain all subterfuges, and disclaim all equivocations on this subject. They wish to meet and to decide the controversy. The motion to amend, made by the gentleman (Mr. Rhea) from Tennessee, was not made by the procurement of the friends of the power of this House; and, Mr. T. said, he disclaimed all benefit from it. He admitted the advocates for the power held the affirmative, and were bound to maintain it, or yield the controversy, and discharge the prisoner. He had no disposition to avoid the point of dispute.

Sir, said Mr. T., different gentlemen, who agree in the same conclusion, will arrive at that conclusion by different modes of reasoning. He did not wish to impugn or acknowledge the reasoning of his associates who had preceded him. But it was due to himself to say, while he agreed with them in the conclusion, he could not accord with them in their reasoning which led them to such conclusion. They have undertaken, said Mr. T., to derive this power in the House to punish for contempt and breach of its privileges from the Constitution, or from the common law. This, sir, said Mr. T., has called forth able and elaborate arguments on the construction of the Constitution and the powers delegated by it, and those supposed to be derived from the common law. And, in reply, we have been told that the Constitution did not grant the power, and that the common law was not adopted in this country; and thus the friends of the power had wholly failed in their deduction of title. Sir, said Mr. T., for myself, I disclaim to hold this right in the House from either the Constitution or the common law. He admitted it was a question of doubt whether the common law had been adopted in this country; but as he did not deem it relevant to the present question, or essential to it, he should not pursue the argument on this occasion, while he should cheerfully discuss the question whenever it was material. But, sir, said Mr. T., while I thus excite surprise in disclaiming to hold this power under the Constitution or the common law, I do maintain that this House possesses the power, as incidental to its existence, and an inseparable attendant upon its formation. The Constitution created this House, and gave it existence. The power of self-defence and self-preservation follows as an incident, an inseparable attendant, and a necessary consequence. The functions of the Constitution terminated with the formation of this House; and we ask not to deduce this right of self-defence and self-protection from any construction of the Constitution, while we claim this right to the House as inherent and self-evident to its existence. Our opponents have denied this

power to the House; they have said we have no common law, and it is not delegated by the Constitution, and have, therefore, called on us to show the authority for the power which we claim. Let me, in return, ask any one of those gentlemen to show their individual right to use any means of self-defence. The right is not given in the Constitution; there is no statute, and they say there is no common law. But, yet, no man doubts that each individual has the right of self-defence and self-preservation; and that this right is incidental to his existence, and that he possesses it as a right derived from nature. In like manner does every corporate body, formed for judicial or legislative purposes, possess the right of self-defence and self-protection, as an inseparable attendant upon its formation. This, said Mr. T., is the extent of the power which we claim. And this power has been claimed and exercised by every legislative body or judicial tribunal recorded in history. This power was claimed and exercised by all courts in our own as well as in every other country. The gentlemen could not show by what right courts of law possessed this power. It was not given by the Constitution, nor by any statute; and yet it was claimed by them, and daily exercised.

It has been said, that the Constitution provides, "that the trial of all crimes, except impeachment, shall be by jury;" and that any exercise of power by this House is therefore prevented. In like manner does the *magna charta* provide, "that no man shall be taken or imprisoned, except by the legal judgment of his peers, or the law of the land." And yet the Parliament of Great Britain, and all their courts of justice, have constantly proceeded, by attachment and summary process, to prevent all interruptions, and remove all obstructions in the course of their business; to enforce their orders, and to punish for contempts of their authority. If the learned gentlemen will examine law books, they will find it advanced as a principle of English jurisprudence; that attachments are granted, at the discretion of the court, to enforce all rules and orders, and for any contempt of court; that attachments are granted for threatening the life of a prosecutor in a criminal action; that it is a high-handed contempt, punishable by attachment, to scandalize a court, or a suitor, or attempt undue influence while proceedings are pending. In the fourth vol. of Bl. Com., p. 285, it is said, that "attachments are as old as the laws; for laws, without competent authority to secure their administration from disobedience and contempt, would be vain and nugatory. A power, therefore, in the courts of justice to suppress contempts, by an immediate attachment of the offender, results from the first principles of judicial establishments, and must be an inseparable attendant upon every tribunal." The learned commentator proceeds to remark, that some writers have endeavored to derive this right of attachment, by construction, from an ancient statute; while he insists it is not derived from any law, but is an inseparable attendant upon every tribunal, and

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results from the first principles of judicial establishments.

But, said Mr. T., we have been accused, in this debate, of having a "hankering" for the common law; and possibly some gentlemen may not consider the preceding authorities very satisfactory. I therefore beg leave to call the attention of this House to the decisions and the practice of the courts of justice in our own country. They will be found abundantly to support the power for which we now contend; and at the same time to give construction to the Constitution, and to demonstrate that this power to punish for contempts and to enforce self-protection is incidental to the existence and self-preservation of the courts. It must be summary; from its nature it is to be applied to the circumstances; and it must be discretionary; and that the offences to which this power is to be applied do not come within that class of crimes contemplated by the Constitution, and for which is guaranteed the trial by jury. The object of the contemplated power is not for punishment as such, but as a means to support the authority of all courts, and protect themselves in the performance of the duties enjoined upon them. In the case of the *United States* against *Goodwin*, in 7th vol., *Cranch's Reports*, p. 32, an application was made for an attachment against a printer for a libel on Congress, in publishing that they had passed a law, in secret session, giving \$2,000,000 to Bonaparte. The court very properly decided that they had not power to punish for contempts against other bodies, and could not grant the attachment; and that, to punish the offender for it as a crime, required the intervention of a grand and petit jury. But the court, at the same time, established the principle for which we now contend; and adjudged that they had the power to punish for contempts and contumacious conduct against themselves. The opinion of the court, in this case, is so much in point to the present debate, and so important, Mr. T. said, he would beg the indulgence of the House to read a part of it:—"The only ground on which it has ever been urged that this jurisdiction could be maintained is, that upon the formation of any political body an implied power to preserve its own existence, and promote the end and object of its creation, necessarily results to it. But, without examining how far this consideration is applicable to the peculiar character of our Constitution, it may be remarked that it is a principle by no means peculiar to the common law. It is coeval, probably, with the first formation of a limited Government, belongs to a system of universal law, and may as well support the assumption of many other powers as those more particularly acknowledged by the common law of England. But, if admitted as applicable to the state of things in this country, the consequence would not result which is here contended for. If it may communicate certain implied powers to the General Government, it would not follow that the courts of that Government are vested with jurisdiction over any particu-

lar act done by an individual, in supposed violation of the order and dignity of the sovereign power. The legislative authority of the Union must first make an act a crime, affix a punishment to it, and declare the court that shall have jurisdiction of the offence. Certain implied powers must, necessarily, result to our courts of justice, from the nature of their institution. But jurisdiction of crimes against the State is not among those powers. To fine for contempt, imprison for contumacy, enforce the observance of order, &c., are powers which cannot be dispensed with in a court, because they are necessary to the exercise of all others. And so far our courts, no doubt, possess powers not immediately derived from statute. But all exercise of criminal jurisdiction in common law cases, we are of opinion, is not within their implied powers."

Again, in 4 *Cranch* 93, in the case of *Bollman* and *Swartwout*, the court say, "they deem it proper to declare, that it disclaims all jurisdiction not given by the Constitution or by the laws of the United States. But that this opinion is not to be considered as abridging the power of the courts over their own officers, or to protect themselves and their members from being disturbed in the exercise of their functions. It extends only to the power of taking cognizance of any question between individuals, or between the Government and individuals."

Here then, said Mr. T., the principles for which we contend are established by the Judiciary of the United States. They claim to possess the right; they pretend not to deduce their title to this right from the Constitution, or the law, but profess to hold it as an incident and necessary means of self-preservation. Every circuit and district court of the United States claims and exercises the same power. They do not consider the command of the Constitution, that all crimes shall be punished only on trial by jury, as being applicable to the necessary power to prevent the interruption of their business, and punish for contempts against their authority. Sir, said Mr. T., it is not long since Judge Van Ness, of the New York district, had two printers before him for handling too rudely some proceedings in his court. It is not long since Judge Story, at the circuit court of Massachusetts, attached a person for attempting undue influence, while proceedings in a case were pending before the court. If, then, said Mr. T., we find the courts of the United States claiming and exercising this power, may we not ask our opponents, from whence these courts derive their power? That they have it, is not to be doubted—that they do not derive it from the Constitution, or from any law, is equally certain. That it is a necessary incident and inseparable attendant upon every tribunal, is an undeniable proposition. Can it then be possible, said Mr. T., that this power, so necessary to all order in courts, so essential to the due administration of justice, should be vested in all judicial tribunals, as an inseparable attendant, and yet be denied to the Legislature

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of our country? Can it be possible, said he, that inferior tribunals should be vested with the rights of self-defence and the power of self-protection, while this right and this power is denied to Congress? And are they to be told, they must supplicate protection from the inferior tribunals of their own creation, and, when interrupted in the progress of legislation, they must tamely wait a judicial inquiry and a trial by jury? Can it be possible that reason, law, or the Constitution, should be thus careful to protect and purify the streams of justice, and yet deny to the fountain the means of protection and defence against poison and pollution?

Mr. T. said, he had made several ineffectual attempts to obtain the floor at an earlier stage of the debate. If he had been so fortunate, he should have attempted to examine the subject in all its bearings. But the ground had been so fully occupied, and so ably discussed, by his associates who had preceded him, that it only remained for him to endeavor to obviate some few of the objections which had been made against this power, which in his opinion, had not been sufficiently answered. This would necessarily require a desultory course of argument, which he hoped the House would appreciate as resulting from an intention to avoid the ground which had been successfully occupied by those who had preceded him. He in particular wished the benefit of the remarks which had fallen from the gentleman from South Carolina, (Mr. LOWNDES,) on the construction of the Constitution and the common law; because those remarks so well accorded with his own sentiments, and were so immediately applicable to the present subject. Sir, said Mr. T., the 5th and 6th clauses of the amendments to the Constitution have been read to this House, and pressed into consideration, as having taken away and abridged any power in this House to punish, by summary proceedings, for breach of its privileges, and which might otherwise have been supposed to have existed. He said, these clauses of the amendments to the Constitution provided, "that no person should be held to answer an infamous crime, unless on indictment;" and secured a "trial by an impartial jury." But, said Mr. T., these clauses of the Constitution have no relation whatever to the question under consideration. They secure the rights of the citizen, and provide a mode of trial in all accusations of a criminal nature; but they do not impair the power of the courts in all proper measures of defence and self-protection. These clauses in the Constitution form the basis of legislation, and fix the land-marks to regulate courts of justice in the trial of all crimes. From the practice of the courts, it is evident that they do not consider them as applicable to offences by contempts and interrupting the proceedings of the courts. A recurrence to the usurpations, and the injustice resulting from the prerogatives of the Crown, and the usages of the courts of common-law jurisdiction, will satisfactorily explain, in this respect, the meaning of our Constitution. The Crown claimed the right to issue mandatory letters, un-

der the great and privy seal, to proceed by information, ex-officio, and to issue State warrants, to arrest subjects at discretion; while the Star Chamber and Exchequer Courts also executed summary and oppressive jurisdiction over the liberties and the lives of citizens. To limit these powers, and to guard against like acts of oppression and abuse, was the evident and commendable intention of our Constitution; and it can, by no construction, abridge or have relation to the powers necessary to enforce the order and self-preservation of a court of justice.

Because the Constitution provides for the members of Congress "privilege from arrest and freedom of speech," it has been urged that the idea of all other privileges has been necessarily excluded. Gentlemen ought to observe, that the privileges provided are personal. They are privileges of the members, and not of this House. The one was necessary to be given, and is therefore secured by the Constitution; the other followed as an incident to the formation of this House; therefore it is not mentioned. The clause in the fifth section, providing "that each House may determine the rules of its proceedings, punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member," confirms the preceding construction. While this House, from its formation, possesses as an incident the power to remove all interruptions, and to enforce its protection, this incidental authority would not extend to a power over the conduct and the morals of its own members. Suppose, said Mr. T., a member of this House should be notoriously guilty of stealing; the incidental authority in this House to protect itself, in the ordinary progress of legislation, would not reach the case. He would occupy a lone seat, without the power of this House to remove him. And yet, without the delegated authority to punish and to expel, we should be compelled to be offended with his presence. The result, therefore, is, that the individual privilege of members is secured by the Constitution, and the power of the House over its own body is expressly provided, while the authority for self-protection is nowhere mentioned; because it follows as a necessary incident and an inseparable attendant on the formation of the body.

We have been told, said Mr. T., with great emphasis by my colleague, (Mr. SPENCER,) that the plea of necessity, under which this power has been attempted to be supported, is the tyrant's plea. The honorable gentlemen from Kentucky (Mr. ANDERSON) and from Virginia (Mr. BARBOUR) have concurred in the assertion, and have pressed with great ardor the odious aspect of this plea. But, said Mr. T., these gentlemen ought to recollect it is a maxim with political writers, that it is not the rigor, but the inexpediency of laws or acts of authority, which makes them tyrannical. You may inflict, said he, the punishment of death, and it is either a just or tyrannic act, in reference to the offence for which it was inflicted. But, said Mr. T., will gentlemen cry out tyranny, and talk of the rights of man, be-

cause this House attempts to protect itself from insult, and to maintain its purity in the progress of legislation? This love of liberty is highly commendable, and I speak of it not as a matter of accusation, while I do say, it is the excess of liberty which has borne away the feelings of gentlemen—made them lose sight of the object of inquiry, and induced them to forget the real subject of discussion. A villanous and unsuccessful attempt to corrupt the integrity of an honorable member of this House is the subject; and yet, when we arrest the offender, we are induced to forget our own privileges, while we listen to elegant harangues from gentlemen on the other side of the House, about the privileges of a member and the rights of man! The ardor and the zeal displayed upon this occasion have had the effect to decoy gentlemen from the ground of dispute, and have involved this House in a discussion concerning the common law and the liberty of a citizen. The enthusiasm of liberty had burst forth with such a constellation of talent, and with an aspect so imposing, it had even made "the wrong appear the better reason." We have been told, said Mr. T., by the gentleman from Virginia, (Mr. BARBOUR,) that reasoning from mistaken analogy was the most fruitful source of error; and, Mr. T. said, in his opinion the gentleman's speech had been a most brilliant elucidation of the correctness of his position. He had lost sight of the insulted dignity and the violated rights of this House, while he had dwelt, and pressed with great force upon its consideration, the infringement of John Anderson's rights. It is at least, said Mr. T., a case of conflicting rights. If the prisoner has rights, so have this House. Whose rights are violated, is the question. The prisoner, as a free and independent citizen, has a right to walk through the public avenue. As an abstract proposition, no one dare deny it. Yet if, in the exercise of this right, he should be rode over by a carriage in the lawful pursuits of its business, the question arises, which was out of place, and which was in the wrong. If gentlemen will enlist their feelings for one side of the question, and for one class of rights, they will ever be in an error. Mr. T. said he wished to be distinctly understood. For, said he, be it spoken to the honor of this House, John Anderson has no defenders on this floor; while the principles of liberty, upon which his case may depend, and which may establish precedents to involve the rights of others, have many honorable and able defenders here.

Mr. T. said, while himself and his associates began at A, their opponents commenced at B. While we, said he, discuss, and endeavor to maintain, the power and privileges of this House, our adversaries discuss the rights and the privileges of a citizen. They maintain their arguments with general propositions; which, while they ought not, and cannot be denied, are evidently irrelevant and inapplicable to the real subject of inquiry. If we thus start from different propositions, and pursue different courses, we can never hope to arrive at the same termination. Sir, said

Mr. T., issue your warrant against that honorable gentleman, (Mr. BARBOUR,) who has denied the power of this House with such ardor and ability, and bring him before your bar. He would stand there in his native innocence, with a heart as pure as his head is sound. He would demand of you the cause of his arrest, and you could make no response. Then, and then only, would commence the tyranny of which gentlemen have so feelingly spoken. Then would be presented a case of violence—an instance of outrage upon the liberty and the rights of a virtuous citizen. Then all the zeal, the eloquence, and the talents which have been displayed on this occasion would be justly called forth. It would be applicable to the subject of inquiry. But, said Mr. T., reverse this scene; state the facts as they are; call John Anderson to your bar. He would stand there, covered with vice, shrouded in infamy, and with corruption marked upon his front. Would he dare to prate of the rights of man, and talk of the liberties of a citizen? Should he demand the cause of his arrest, to him you could respond. The true question would then be fairly stated. It would not be the invasion of John Anderson's rights, but the insulted dignity of this House—an unprincipled attempt to corrupt the Legislature of your country, and poison your national councils. Where, then, is the tyranny, the violated liberties, and the outraged rights, of which gentlemen have so loudly spoken? Shall such an act of villany and of danger pass off with impunity? Shall we be told that this House have not the right and the power to guard, and to protect, and to defend their own body in the just and ordinary performance of its legislative duties? Shall we be disturbed with impunity within the walls of this House, or shall the vicious and the unprincipled drum beneath your windows, and interrupt the progress of legislation, and we sit here without the power to prevent it?

[Mr. BARBOUR, of Virginia, rose to explain, and said it was not denied that the House had the power to keep order, and quell any disturbance within these walls.]

Mr. T. said the explanation of the honorable gentleman had given him the argument for which he was contending. Do gentlemen admit the power to keep order within the walls of the House? I ask them, said Mr. T., from whence they derive that right? It is not delegated in the Constitution; we have no statute providing the power; the common law is not adopted in this country. I call upon the gentleman, said Mr. T., to show the authority for the exercise of this right. The admission of this right is an admission of the question in controversy. Yet, so strongly have the gentlemen felt the imperious necessity of this power for the good order of the House, they have yielded it, with a limitation to the walls of the building, and thereby yield the point in dispute. The gentleman from Virginia (Mr. BARBOUR) has, indeed, endeavored to guard against the conclusion, by deriving the power from the right of property, as occupants of the building.

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Sir, said Mr. T., the denial of this power to a judicial or a legislative body has been reserved for this occasion, and for the ardor of this debate. If I am not greatly mistaken, said Mr. T., there is no instance in the history of courts, or the proceedings of Parliament, in which the existence of this right has been denied. It is even admitted by all partisan writers, among whom he would mention Junius as the most conspicuous, whilst the abuse of the power was strongly controverted, and its limitation was eloquently maintained. Here then, said Mr. T., is a solution of the whole difficulty. The existence of the right is admitted. The extent of the right and the expediency of its exercise are questions of great moment, and upon which there is abundant room for difference of opinion. Here is the ground upon which our opponents ought to have taken their stand. The question, therefore, resolves itself into a question of expediency as to the exercise of the power. How are the facts? Do they sufficiently call for the interposition of this House? Here is to begin the inquiry the oppression and the injustice of which gentlemen so much fear; if, in the exercise of this power, the House shall go beyond the necessary maintenance of its just dignity, and its due protection and self-preservation in the performance of its duties. Party times have produced excesses, and exhibited acts of party violence. But the abuse of a power can never be urged as an argument against its existence, while it may be justly urged against the expediency of its exercise. Do the facts now before us warrant any further proceeding on the part of this House? An attempt has been made to bribe a member of this House, the chairman of the Committee of Claims. The importance of this attempt is best known by adverting to the course of business on this floor. All the business of this House is referred to the several committees, and it is the constant order to dispense with the reading of the papers and documents. It is, in substance, confided to the different committees, whose reports are generally conclusive, and without which this House could never progress in their business. What is the result? An attempt has been made to corrupt the man who holds the purse-strings of your Treasury; to bribe a member of this House in the performance of his legislative duties. He could not, he said, imagine a more daring act of high-handed villany. He most sincerely hoped every member of this House was proof against the baneful influence of such attempts. But he was unwilling to proclaim that we did not possess the power to punish them, and to suffer the perpetrators to prowl about our House and offend it with their presence. What, said Mr. T., is it no offence to bribe a member of this House—pollute the fountain of legislation, and poison the source of all laws? Upon the deliberations of this House depend the question of peace or war. The prosperity and the happiness of our country, the liberty and the lives of a free people are dependent upon our deliberations. An attempt to corrupt your national councils is an offence of such magnitude as to embrace within

itself, as a sub-division, every other crime known to your laws. Ruin and disaster, treason, stragem, and spoil, follow in its train. Its consequences are too immense to describe, "too vast, too boundless, to explain." And when we arraign at our bar such a culprit, are gentlemen to forget the dignity, the duties, and the privileges of this House, and, in their undue jealousy of vested powers, to talk of the rights of man and the privileges of a citizen? It is the misapplication of a virtuous love; it is the enthusiasm and madness of liberty which impels to such a course.

Mr. T. proceeded to answer several other objections, and to urge some additional arguments; and finally concluded, that, in his opinion, it was a clear case that the House possessed the power, and that they ought to proceed and arraign John Anderson at their bar; and if, upon investigation, the charge should be found to be true, to pass upon him such sentence as the honor and a just regard to the future safety of this House should require.

Mr. HOPKINSON spoke as follows: If I considered the resolutions now under discussion to have no other effect than to provide for the escape of an insignificant individual from the punishment most justly due to his gross and dangerous offence; if I did not consider them as prostrating the dignity and safety of the Representatives of the people of the United States, I should not ask your indulgence while I offer my remarks upon them. But it is one of those cases in which great principles arise out of a petty transaction; and important consequences must follow from the decision which shall be made. In the outset of the discussion, let us correctly understand who are the parties in the controversy. It has been represented that the rights and liberties of the citizen, concentrated and personified in John Anderson, are found on one side of the question, and the personal privileges of the members of this House on the other. This is not a correct view of the subject. The members of this House personally, individually, as for themselves, claim nothing in this argument; they ask no protection; they assert no privileges. The pretension, such as it is, is made in our collective, representative capacity; standing in the place of the whole people of the United States, maintaining their dignity, asserting their rights, providing for their safety. It is we then that are with the people, and the people with us, in this controversy; and on the other side we see but John Anderson, an acknowledged criminal, who has insulted, and endeavored to corrupt, the Representatives of the people of the United States, to the great injury and disgrace of the people. If, therefore, I could ever be influenced in my conduct here by mere popularity, I could never feel myself safer in that respect than at this moment. Having thus stated the parties to the dispute, let us inquire into the points of difference between us. In doing this I would lay this particular case out of view, as indeed the discussion has resolved itself into an abstract question of right and power. We contend this legislative body of the people of the

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United States has, and must necessarily, from the very nature and uses of its existence, have, within itself, and of itself, the power to protect itself and its members, while acting under its authority and in its service, from every attempt to overawe its deliberations by violence, or pollute them by corruption. This, we say, is a power inherent in, and inseparable from, the very existence of the body—created with it, and derived from the same authority. All this is denied by our opponents.

You will observe, sir, I keep out of view, in stating this proposition, every idea of punishment for an offence or crime; thus avoiding a great mass of objections growing out of that view of the subject, and founded on the provisions in the Constitution for the trial and punishment of crimes. I consider the right contended for solely as a protecting, not as a vindictive or punishing power, and of course the exercise and extent of the right is determined and limited by the protection required, be that more or less. Is there, sir, any right, is there any principle, more familiar with the nature of man than this, of self-protection from every species of injury? Do I say, with the nature of man? I add, with the nature of every living being. The meanest reptile, the feeblest animal that crawls and breathes upon the earth, asserts and exercises it; repels, to the utmost of its strength, every hostile assault, and considers its own preservation as the first of its duties. Nor, indeed, is this all-pervading principle confined to animal life; the vegetable world claims it also. The rose presents a thorn to the hand that assails it too rudely; and the sensitive plant shrinks from the touch of pollution. Is this House, then, the only body, natural or political, which must bare itself, unresistingly, to the violence of the ruffian and the corruptions of the depraved? No, sir, we maintain that the people of the United States, in creating it, intended to create, and did create, a perfect, complete, and efficient being, competent to all its uses, and efficient in every power necessary for them; and not a miserable deformed, powerless being, to be trodden upon without redress, and despised with impunity. Such is our ground. What, then, is opposed to opinions apparently, at least, so strong and unimpeachable? Why, sir, the Constitution—the rights of the citizen—the danger of privileges undefined and undefinable. It is not denied that other similar bodies in other countries as well as our own; that courts, great and small, down to a petty justice, possess the power now contended for; but the Congress of the United States must not have it, because of the provisions of the Constitution. Where are they, then? In what article or section of that instrument? I agree, most explicitly, that it is vain to show the reasonableness, the necessity, the antiquity, the universality of the principle we contend for, if the Constitution prohibits it to us. In that case we must abandon it. I surrender every thing to that supreme power. But, sir, I may be permitted to say, that if the Constitution of the United States really has taken from this body a power heretofore belonging to every similar body, we

have a right to expect and demand that it be clearly and explicitly shown; and that it would be most easy to show it. Yet we find the gentlemen who hold this ground have no concert or agreement as to what part of the Constitution contains this important prohibition. One finds it in certain provisions, which he asserts to be clear and conclusive; another infers it from certain given powers, which are alleged to be exclusive of all others; and a third class deduces it from the nature and spirit of our Government. Now, sir, it is not unfair to say that a prohibition so difficult to be fixed to any part of the Constitution, really exists in no part of it; and that we need not fear to violate an instrument which takes so little care of itself in this respect.

The honorable gentleman from New York, who introduced the resolutions, relied on express prohibitions, which he thought he discovered in those parts of the Constitution which require an oath previous to the issuing of a warrant; which protect the citizen from being called to answer for any crime, unless on the presentment or indictment of a grand jury, securing him from being put twice in jeopardy for the same offence; and which assure to him a public trial by an impartial jury. The security of these important rights is found in the fourth, fifth, and sixth amendments of the Constitution. I shall omit to trouble the House in the answers I had intended to make to these several objections, because they have been sufficiently refuted already, and because, in the subsequent stages of the debate, they seem to have been abandoned by every body. I consider them to have died a natural death, and would not disturb their repose. As to our having issued the warrant for arresting Anderson, without a previous oath of his offence, it is obvious that, if the objection be well founded, it comes too late; and can be no reason for passing the resolution directing his discharge. The utmost effect would be to acknowledge and correct the error, and detain him until it was done. But, in truth, it was no error, provided we have power to proceed in the case at all. I need not repeat what has been so well said, to show that the clause in the Constitution on this subject has not, and never was intended to have, any possible relation to a case like this. It looks wholly to other objects. I defend the warrant without oath on this ground. We assume the right to act at all in the case, from the powers we allege to be necessarily vested in every public body; and, this established, we look to the mode of proceeding in the exercise of this power, to the precedents and practice of similar bodies, acting in similar cases. We take the whole system together, as well the power claimed as the means of giving it effect and operation. Now, without looking to the precedents of the British Parliament, we have the example of our Congress, in a case in every respect the same with this, even to the nature of the offence. In the case of Randall and Whitney, so often mentioned, the warrants were issued on the representation of the facts made by members in their places, and it never was required that



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they should verify their representations by an oath. So in every other instance.

The honorable gentleman from New York having established himself, as he supposed, on his Constitutional ground, of which I shall make no further remark, proceeded to assault that of his opponents. He says we resort to necessity, that plea of tyrants. Why, sir, it may be the plea of tyrants, but assuredly it is not exclusively theirs. It is the plea of everybody, whenever it exists. It is regarded by everybody, and recognised by the law. Your courts daily depart from general and established rules, on the plea of necessity. Men are permitted to justify or excuse themselves, on this plea, for acts otherwise indefensible; nay, inasmuch, that the necessity a man may be under to save his own life may justify his taking that of another. I hope, therefore, we shall not fall under a heavy condemnation for resorting to this plea, if we fairly make out a case under it. This, however, is denied. We are told that, as regards any actual violence to the House itself, disturbing its proceedings, there is no necessity for this proceeding, because you may put out or remove the offender. First, let me ask the gentlemen who are so liberal as to grant us this power, and yet will allow us nothing not found in the Constitution, where they find it in that instrument; and if they claim a right, and imply or assume, from necessity, so far, what is to prevent other gentlemen who think the necessity goes much farther, from implying or assuming it to the extent of their notions of the necessity? Can it be pretended that this necessity, that is the necessity of preventing actual violence and interruption to the body while sitting, calls for no more than the right of putting out the offender; and that the moment he is thrust over your threshold your power over him ceases? What, sir, is the value of putting him out, without the right of keeping him out? This, then, is substantially the great difference, and the only difference between us. Our opponents are satisfied with the right of putting the offender out of our hall, and we claim the further right of keeping him out. Without this he may return instantly, again and again, and the time and attention of this body would be wholly consumed in this pitiful contest with a ruffian. The right to put out is worth nothing, while you couple it with a right and power to come in. I here again disclaim the commitment by the House for a contempt, to be in the nature of a punishment; it is entirely a power of protection; if, therefore, it shall be judged necessary, to prevent a repetition of the offence, to commit the offender to custody, it may be done on the strictest principles of self-preservation and self-protection, and without any infringement of those parts of the Constitution which provide for the prosecution and punishment of crimes. So far in relation to assaults made upon the House collectively; and I should think it is manifest the necessity exists to the whole extent we contend for. Is it not also so as regards the personal security of the individual member, acting under the authority and in the service of the House, and

therefore, I should think, entitled to the whole protection of the House? Sir, every member of this body, and more especially such as compose the important committees, is in a peculiar manner exposed to a variety of assaults upon his honor, his feelings, his integrity, and his person; which the citizen is wholly free of. Did the people place us in these posts of danger, uncovered and unarmed for self-defence? Peculiar hazard demands and justifies peculiar safeguards; and the people of the United States are not so unwise or unjust as to say to us, you shall encounter uncommon dangers and have no more than common protections. For their own sakes they could not say so; for, inasmuch as it is for them we act and legislate, it is all-important to them we should do so without fear, without favor, and, above all, without corruption. The disgrace may be ours, but the injury will be theirs. When you, Mr. Speaker, acting as the organ of this body, place a gentleman at the head of an important committee, do you mean to throw him on his own personal means of security in the exercise of the duties you impose upon him? If so, who hereafter will accept the appointment, or discharge the duty? I beg gentlemen to consider in what situation they will place the Chairman of the Committee of Claims, who brought this affair before the House, if they pass these resolutions. It will be to say to him, you have been grossly insulted by this man; your honor has been violated; your feelings outraged; but really it is no affair of ours; it is a matter between you and John Anderson, which you must settle with him as you can. If you can sue or indict him, the courts are open to you; but if this cannot be done, you must resort to your own means in your own way. I beg gentlemen seriously to reflect, whether any man of feeling or honor will serve you or the people upon such terms as these. If members of Congress are to resent and redress personal affronts and injuries, attacks made upon them as members of Congress, and only because they are so, the people hereafter must choose their Representatives, not for their wisdom, experience, and integrity, but for the strength of their nerves, and the power of their arms.

The honorable gentleman from New York next attacks us for relying on precedents to support us, declaring that they are the expedient of a bad cause. Not so say my books and experience. On the contrary, I have been taught to consider an adherence to precedents as the certainty of the law; as the great safety of every right to the citizen. To have the law fixed, and to know what it is, is the great desideratum in the administration of justice, civil and criminal; inasmuch that learned judges have said it is of more importance, in many cases, that the law should be certain than right. If precedents are disregarded; if what is the rule of action to-day was not the rule yesterday, and will not be so to-morrow, what guide has the citizen for his conduct; what security has he for his person, his property, his most sacred rights? What, then, are the precedents we rely on, in support of the power in cases of contempt?

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They are furnished from the examples of the British Parliament; of our own Congress; of our State legislatures; and of every court in the country; making a body and weight of precedent which we cannot disregard without more confidence in ourselves, and more responsibility than I am willing to assume. Whatever difference there may be in the manner or extent of exercising the power, the principle is essentially the same in all. I beg leave to inquire into the objections of these several authorities; first premising, that I do not mean to found the right upon them, or to consider them as creating or giving the right, but merely as evidence of its existence and utility. They furnish argument rather than authority. First, as to the usage of the British Parliament. I will not be understood as pretending that this usage has any binding force upon this House of any sort, or in any degree; but I may say, there is such a similarity in many of the great principles of the construction of the British Government and our own, that we may wisely take into our consideration what they have found expedient and safe to be done in similar circumstances. We may look to them for instruction in legislation as we do in law, medicine, or any of the sciences; we may use the lessons of their experience and the light of their knowledge, without degradation or subserviency. But, to break us up in this part of our argument, we are told, with some exultation, that this is the common law of England, and which has no authority or force in this country, and that it has been so repeatedly decided by the Supreme Court of the United States. Both positions are unfounded. In the first place, the power in question is not derived from the common law of England; and, in the second place, the Supreme Court never has decided that that common law has no force or authority in this country; but exactly the reverse. As to the first point; the right we contend for has neither its origin or its authority in the common law of England. It is the law of nature and necessity. It is a coeval with the first assemblage of men that ever met together for deliberation or action; for, without it, they could neither have deliberated or acted. It is long antecedent to the common law of England, and the existence of England herself; and is now known and practised where neither England or her common law have ever been heard of. You will find it asserted and understood equally in the legislative assemblies of Greece, and at the council fires of the Cherokees. It belongs to no state of society or period of time, but is as universal, as the law of self-preservation from violence and injury. The decision of the Supreme Court on the common law of England, if we can properly say anything has been decided, applies only to the question, whether the courts of the United States have jurisdiction of offences at common law; that is, whether they can undertake to try and punish a crime, the trial and punishment of which is not expressly given to them by the Constitution, or some law of the United States. Even this limited question can hardly

be said to be settled; although two honorable gentlemen in the course of this debate—the one highly respected in his professional, and the other in his judicial character—have declared it has been repeatedly decided, they have not been good enough to refer us to these repeated decisions.

The gentleman from Mississippi read the opinion of a single judge of the Supreme Court, with whom, I believe, the doubt originated; but this cannot be called the opinion of the court. And the gentleman from New York referred to another case, which, it is true, as far as it goes, was the opinion of the court. But it passed without argument; and the judges of the Supreme Court have been so far from considering the question settled by that case, that, so late as in the year 1816, they invited an argument of the question, some of them indeed declaring they considered the point settled, and others as expressly saying they did not so consider it; and all being willing to hear the argument, which is never allowed on a decided question. Let that point, however, be or be not decided, it is widely different from the position now taken that the common law of England has no force or authority in the courts of this country; the contrary of which is recognised almost daily by every court in the country. It is remarkable that its authority has been particularly acknowledged, and by the Supreme Court too, in the very matter of contempt; the whole manner of proceeding in cases of that kind being derived from the common law. The gentleman from New York, in order to prove that, even in relation to contempts, the courts act under a statute of the United States, and independent of the common law, has referred to an act of Congress, passed 24th September, 1789; by the 17th section of which it is enacted that the courts of the United States shall have power to grant new trials, for reasons heretofore allowed, &c., to impose and administer all necessary oaths, &c., and to punish all contempts of authority in any cause or hearing before them; and this is the law relied upon to show that the common law has been driven out of our courts. Really I may say to the gentleman, in relation to this act, "I thank thee for that word;" for if there ever was an act of a Legislature which recognises the power of the common law, and relies upon it for all its force, efficacy, and execution, it is the very one referred to. The courts are to grant new trials, for reasons for which they have been usually granted. And how are the courts to discover what these reasons are, but by the decisions of courts founded on the common law? They are to impose and administer all necessary oaths; is no reference to be had to the common law to ascertain what oaths have been considered as necessary and proper to be imposed and administered? They are to punish contempts against their authority; and how shall they decide what is or is not a contempt of that authority, in the understanding of the law, but by reference to precedents and the common law? May a judge of the United States call anything a contempt, and punish it as such and in his own way, his

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pride or caprice may choose to call so? And are the citizens of this country thus exposed to danger without any known rule by which they may avoid it? Where, then, is the rule? It can be found in no statute of the United States; and if we reject the aid of the common law, we are absolutely without a guide or rule, either for the court or citizen. The truth is, sir, there is no case of legal controversy, civil or criminal, which can be carried through our courts, from its commencement to its final issue, without in some stage of it, or in some manner, applying to the common law. If, however, the precedents of the English Parliament are to have no weight with us on this occasion, what objection can be made to those of our own Congress, sitting under the same Constitution which governs us, and having the same obligation to observe it? Several cases have been produced, in which the Congress have exercised the power of proceeding in the way we are proceeding, against a citizen guilty of a contempt of its authority; and one of them precisely the same as this. It is not controverted that all the State Legislatures assume this power, and, in some instances, have exercised it; and it cannot be questioned, that every court in the country, from the highest to the lowest, even to a justice of the peace, has exercised this power, it never having been doubted, nor its utility and necessity denied. This mass of precedent proves, beyond all question, that, by a sort of universal consent, it has been conceded and understood that every body, created either to make or administer the laws of the country, must have a power within itself, and independent of the other tribunals of justice, to protect itself from violence, from insult, from everything and everybody that would interrupt or corrupt its deliberations and decisions; and that the use and exercise of this power must be left, in a great degree, to the sound discretion and responsibility of the body exercising it. Assuredly, sir, there is not more danger of an abuse of this power by this body, the immediate Representatives of the people, and returning to the people every two years for their approbation or condemnation, than by the Legislatures of the States, and the numerous courts of justice spread in every part of the country. And may we not safely believe, too, that all these Constitutional objections are fanciful and unfounded, since we find the exercise of the power has been assumed by all the public bodies I have mentioned, undisturbed and uncomplained of?

The honorable gentleman from Virginia (Mr. BARBOUR) places his opposition to our proceeding upon ground wholly different from the honorable gentleman from New York. He does not pretend to discover any absolute prohibition of this power in the Constitution; but comes at it argumentatively, by inference. The gentleman maintains his argument, not only by rejecting altogether the doctrine of implied, inherent or incidental powers in Congress, but thinks he finds provisions in the Constitution which, by fair inference, at least, negative the power now contended for. He relies, first, on the 6th section of

the 1st article, which relates to the privileges of members of Congress; and, second, on the general ground that the power we claim, not being found among the enumerated powers of the House, it follows that it does not possess it; in both points, relying on the known maxim that these affirmative grants or expressions of right must be taken to be exclusive of all others. We will consider the objections separately. As to the first, the section of the Constitution alluded to, provides that Senators and Representatives shall, in all cases except treason, felony, and a breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place; and it is contended that this section contains all the privileges intended to be given to either House of Congress, or their members; there being no right to assume any power not thus given. Before I consider this section, and the argument raised upon it, I would beg leave to warn gentlemen how they adopt or warrant this rigid manner of construing the Constitution and the powers of Congress under it. They may be binding themselves in fetters that may hereafter sit uneasy upon them; and when they shall desire to come at some great good, by a more liberal and enlarged construction of that instrument, they may find themselves unable to move by their own sentence.

But to the objection: It is the danger of every argument of this sort, that it must be overthrown by a single exception. If I maintain that a particular clause in the Constitution contains all the power intended to be given on that subject, and it can be shown that there exists any power not there given, the argument is destroyed; it is proved that all the power was not intended to be expressed, and the barrier at once broken down, the whole subject is thrown open to be governed by general and acknowledged principles and precedents in similar cases. I ask, then, whether it can be pretended, that the section referred to really contains the whole system and doctrine of privilege, extended for the protection of Congress and its members? Has not the contrary been admitted again and again, by every gentleman who has shared in this debate? If, then, it does not contain the whole, where are we to look for the rest, but to the sources to which we have applied? In the first place, it is obvious that this section provides nothing for the protection of the House, collectively, while actually sitting and deliberating on the public business. How then can it be the whole law and power of privilege? Surely it was known to the framers of the Constitution, that it was possible the body of Congress might be disturbed by violence or rude interruption, as well as that one of its members might be arrested or questioned for his speech in the House; and yet they have so carefully provided for the lesser evil, leaving the greater one without guard. This is a strange omission in a deliberate, digested system of the privileges of Congress, intended to ex-

clude every pretence of every other power for its protection. The truth must be, that there were certain known and accustomed privileges and powers in every legislative body, which were not intended to be taken away or diminished, further that they may be considered to be regulated or limited in the particular cases mentioned. If indeed the convention intended, for the protection of the citizen from arbitrary and undefined power, to fix precisely the whole power of parliamentary privilege, and to exclude everything which before had been so considered and used, they would have put the matter past all doubt, by saying so; and not leave so important a change in the received doctrine on the subject, to the uncertainty of inference and argument. But how is the House, in actual session, to be protected against violence and interruption? We are told that, in such a case, we may put the offender out. But I ask, by what authority are you to lay your hands on a citizen and thrust him out of your doors? I do not find this power in the Constitution; and I am told that I must not go out of the line and the letter of that charter of our rights. Why here it is agreed that the necessity of the case justifies his removal, and that we may exercise the force required, because this is our House; and any man may remove an intruder from his own house. As to the necessity, if that is once admitted as giving power, it must be given to the whole extent of the necessity; and that must be judged of by every member, and every House of Congress for itself. Where then is the Constitutional barrier? Precisely where we would place it—in the necessity of the case, fairly and discreetly judged of and decided by the body offended, governing itself by established principles and precedents. As to our deriving the right from the right we have in this House, as our House, and on the same principles on which we would assert it in relation to our private property, I ask if the gentlemen can possibly be correct in this suggestion, however ingenious? This is not our House, as private property is, nor do we hold it in the same right or on the same principles. It is not our castle, as our homes are, from which we have a right to exclude anybody and everybody, as we may please. Can we shut our doors and say that nobody shall be admitted within these walls but ourselves? The experiment would be a dangerous one. Not so in relation to our private dwellings. The public has provided these buildings for our use and occupation, while transacting the public business, but has neither given us a right of exclusive property in them, nor parted with its ownership. The right, therefore, to exclude a disturber cannot rest on this ground; and if it could it would be useless, unless coupled with the further right to prevent him from returning, or disturbing you from without. I would only further remark on this point, that even this right to the exclusive possession of your own house, and to expel an intruder, is a common-law right, provided for by no statute of the United States, and cannot, therefore, avail those gentlemen in this debate who would banish the common law from our land. Another

essential defect in this system of privilege, said to be contained in this section of the Constitution is this, that it provides no means for its own execution; gives no remedy for its violation. When the cases shall occur you will be unable to know how to proceed to vindicate this Constitutional right, and what punishment you may inflict upon the offender. If a member is arrested during his attendance on the House, how shall he be discharged? Whereshall he seek his remedy and protection, if not here? If no power exists here to protect him, because no such power is expressly granted by the Constitution, must he go, in custody of the officer, to the court issuing the writ, at whatever distance it may be, and petition them to be permitted to return to his public duty? And must he wait until the court shall please to signify its will upon his application? And should the court not be in session, must he obtain his writ of habeas corpus, and submit his case, and the rights and interests of the 35,000 citizens he represents, to the pleasure of a single judge? If he is so fortunate as at last to be dismissed, what security has he that on his return he may not be arrested again and again? This privilege, this high Constitutional privilege, is not worth a farthing on these terms. These may be called extreme, improbable cases; but, sir, we may look to such cases. The time may come, has it not already been? when the great question of peace or war may hang on one or two votes, and when it might be worth while to resort to extreme expedients to promote or prevent it. So of other important subjects of legislation.

Again, sir, the Constitution guaranties the member of Congress from being questioned elsewhere for any speech or debate made here. But if we are bound down to the letter of the Constitution, and may assume no power not there expressly given, what will you do if a member shall be questioned, and rudely questioned, and menaced with personal injury for his speech made in debate. You have no remedy, and the boasted privilege is an idle mockery. To remove difficulties so obvious, it has been suggested, in Mr. Jefferson's Manual, as well as in the course of this debate, that we should pass a law on the subject of contempts, and prescribe the mode of proceeding. I beg to ask, sir, what sort of law would you pass? Not, surely, to describe the offence, or fix the cases or conduct that shall be deemed contempts! for if these are limited to the two instances put in the Constitution, you cannot enlarge them by law; you are as much restricted and bound by the Constitution in legislating as in any other exercise of power. Shall we, then, pass a law to prescribe the mode of proceeding, and fix the punishment? If your law shall give to yourselves the right to proceed and punish the offender in a summary way, it is at once obnoxious to almost all the Constitutional objections that have been urged against us now. It will be said, with equal force and propriety, that we, the injured party, constitute ourselves the accuser, the judge, the witness, the everything; and we can have no more right to pass such a law than

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to proceed without one—nothing would be gained to the citizens by it. If, on the contrary, this law shall turn the offender over to the courts for trial and punishment, it will be utterly inefficient to any good purpose; it may punish the wrong, but cannot prevent the injury. If the public weal shall suffer in some important measure by the arrest and detention of two, three, or more of their Representatives, no punishment of the offender will afford any remedy for the evil. Besides, the members of Congress, either during the sitting or afterwards, as the case may be, must neglect their duties, or be detained from their homes, to attend on the courts of justice to prosecute and testify in these cases of contempt. But a conclusive answer, in my mind, to the proposal to pass a law on this subject, is this, that no such law has ever yet been passed or moved; and we have, therefore, the deliberate opinion of fourteen Congresses that no such law ought to be passed. Nor has the point been overlooked or unattended to. The subject has been before Congress on several occasions, but the result has always been the same—to leave the power of the House, as well as the mode of proceeding, to the known and settled rights of similar bodies, without any legislative interference or regulation. What this power was, and how it had been exercised, were well known to the convention, and doubtless intended to be assumed by Congress on the same principles, and used in the same manner as other legislative and judicial bodies had used and exercised them.

The second point of the honorable gentleman from Virginia, I understand to be this, that the Constitution expressly grants and defines the powers of this House, as such, but gives none such as is now claimed, and therefore it must be understood to be denied. It will be perceived that the argument of this point depends upon the same principle on which the gentleman supported his first point, to wit: that the express grant of powers upon any subject necessarily excludes all others; and, of course, this point also is disposed of by showing any cases, however inconsiderable, in which powers not enumerated or assumed by the House are admitted without question. It is denied to us to look to what other similar bodies have done, or to draw any authority from such sources; because, it is said, all this was well known to the framers of the Constitution, and would have been inserted if intended to be given. Nothing is to be presumed, nothing implied. But it has been well observed, that we daily do look to the conduct and course of proceeding of other legislative bodies, and take them for our rule and guide in the construction of the Constitution; for instance, when it speaks of a "quorum to do business," how do you ascertain how many members shall make a quorum but by a reference to the precedents and practice of other bodies? so also, when it speaks of a jury, &c. It is answered, I acknowledge, ingeniously, to this, that we may look to such authority for the use and explanation of terms; but not for the assumption of power. Be it so; and does not this House assume powers, and high and important powers, on the same au-

thority, and without any express grant of them in the Constitution? Do you not take to yourselves, and even impart to your committee the power of sending to the extreme limits of the Union for persons and papers, whenever it is deemed necessary for the public good? What power can be more absolute, more inconvenient to the citizen, or a bolder intrusion upon his person and privacy? Yet we find it not in the Constitution; and justify it only as an incidental power arising from necessity, and sanctioned by the usage of similar bodies. But might we not say, in the tone of the gentleman's argument, that as there is no express authority given to each House of Congress to compel the attendance of absent members, it must be taken to be exclusive of any power to compel the attendance of any other person. The argument is in all respects the same with that urged against us, and the conclusion equally clear and irresistible in both cases, if the premises be admitted. So, sir, we appoint a Sergeant-at-Arms, in the usage of other legislative bodies, but no such officer is named in the Constitution. It is answered to this, that a power is given to the House to appoint its officers; very true, but still you do and must refer to practice and usage to determine what those officers are and ought to be; and, what is still more important, to ascertain the power and duties of those officers, none of which are prescribed in the Constitution. We find in the rules of the House, the duties of the Sergeant-at-Arms prescribed in a very general way; and his fees or compensation for some of them fixed; among which it will be seen there are allowances for the arrest and custody of prisoners taken by order of the House, from which it would seem to have been expected that on some occasions and for some causes, the House has power both to arrest and keep the person of a citizen; unless it shall be confined solely to the case of absenting members, which construction the terms of the rule negative. I ask, sir, by what right, on the gentleman's argument of exclusion, do you pay the Sergeant-at-Arms, and the other officers of the House? An express power is given to fix our own compensation, and if this is to be taken to exclude every other power on the subject of compensation, we have no right to pay the attending officers of the House. But the right arises from the obvious principles of necessity and justice, which must form a part of the Constitution, for without them it cannot be executed.

By turning, sir, to other parts of the Constitution, it will be seen that vastly greater powers than are now claimed are exercised by construction and reference to known usage and principles; and that this doctrine of exclusion cannot be maintained. In the general powers of Congress, authority is given to constitute tribunals inferior to the Supreme Court; and in the 2d sec. of the 3d article, the judicial power is described in very general terms. But what has been done under these few lines of the Constitution? A variety of courts has been created and organized, exercising most of their powers from known and established usage and precedents; provision has been

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made for the trial and punishment of offences; in short, the whole machinery of the administration of justice, civil and criminal, has grown by implication out of two or three general clauses in the Constitution. I would, for a moment, advert again to the doctrine of exclusive construction. In the enumerated powers of Congress it is declared they may "define and punish piracies and felonies committed on the high seas, and offences against the law of nations." And in another part of the Constitution, treason is expressly defined, and the punishment prescribed. Now what is the argument from these facts on the gentlemen's exclusive principle?—That inasmuch as the Constitution has defined one crime; (as it has defined two privileges) and has also expressly designated the offence which Congress shall power to define and punish, therefore Congress has no power to define or punish any other crimes or offences; and all our penal code is an unconstitutional usurpation of power, and void. But we find that neither Congress, nor the courts have yielded to this argument. We have passed laws defining and punishing perjury, forgery, bribery, &c., and the courts have gone on to execute these laws without compunction or doubt. In conclusion of my remarks upon this subject, I repeat, that I dismiss the idea of punishment, legally speaking, for contempts to the House; and consider the power altogether as a protecting one; and the nature and extent of the power proves it to be so. We may commit the offender to close custody, because that may be necessary to prevent a repetition of the offence; and we may continue him in custody as long as, in our discretion, may be necessary for this prevention; but we cannot extend it beyond the sitting of Congress, because beyond that period it is impossible the danger can exist, or the guard be necessary. I leave the subject, sir, with a sentiment of Chief Justice McKean, in the case of Oswald, where, also, the power of the court was denied: If we have not a power to punish for contempt of our authority, we shall soon become so truly contemptible that no contempt can be committed against us.

Mr. RHEA, of Tennessee, said, the preamble to the resolutions having been withdrawn, and therewith the amendment that he had offered to it, the resolutions now stood uncovered, and present themselves to this House for argument and decision. He would now make another attempt to get clear of them, so that the person charged with the contempt might be speedily brought in, and this troublesome business be ended. He therefore moved to amend the said resolutions by striking out all of them after the word *resolved* in the first, and to insert in place thereof the following: "That this House possesses competent power to 'punish John Anderson for his contempt of the House, and his outrage upon one of its members. Therefore, resolved, that the Sergeant-at-Arms be directed to conduct John Anderson to the bar of the House.'" If the resolutions were withdrawn, this proposed amendment would go with them, and the object he had in view would be attained.

Having offered his amendment to the resolutions, Mr. R. proceeded to offer some remarks on the resolutions, in the order in which they presented themselves. The object of the first resolution, said Mr. R., is, that John Anderson be discharged from the custody of the Sergeant-at-Arms. This proposition infers that either the person charged did not commit a contempt, or if he did, that this House has not power to punish it. But the gentlemen who oppose the proceeding against him do not deny that he has committed an offence. And if the power of this House to punish be denied, for what reason was the preamble to the resolution, together with the proposed amendment, withdrawn, and the House thereby then prevented from directly deciding on the question of power? The withdrawing the preamble, and with it the proposed amendment, implied the admission of the power. The object of the second resolution, said he, is, that the person charged may be delivered over to be prosecuted by the Attorney General for his offence. If the consequences of the adoption of this resolution be attended to, it can have but little support. The manner in which a prosecution for the alleged offence may be instituted and pursued in a court of justice has not been declared, and I am not at present inclined to give any opinion respecting it. The third resolution proposes that the Committee on the Judiciary be instructed to inquire into the expediency of providing by law for the punishment of any contempt of the Senate or House of Representatives of the United States, and of any breach of the privileges of either House. Mr. R. said he was not prepared to vote for the adoption of this resolution. It appeared to incline towards a seditious law. If the proposed amendment be adopted, those resolutions will be set aside, the proceedings against the person charged will soon be ended, and he will be discharged. Exceptions are taken to the word *punish*, but a definition is not offered. The word *punishment* is an extensive term, comprehending every species. To reprimand is to punish. The person charged is in the custody of the Sergeant-at-Arms; that is a punishment. Is there any other word, in the same language, equivalent to the word *punish*? If so, let it be named, that it may be substituted; if there be not, why except to the word? The good and virtuous have rights as well as those of another character; and if the rights of the latter are protected, the rights of the former require protection. What are the rights of this House? To be free in deliberation; to be pure in principle; to be correct in decision, in as high a degree as the present state of human existence can extend to;—are rights of the House of Representatives of the Congress of the United States. Whatever will go to violate any of these rights is a contempt, and a breach of the privileges of this House. The term *House*, here used, is not intended to signify this House, composed of walls and materials, in which we sit and deliberate. The term, by a well-known figure, signifies they who sit in it: they are the Representatives of all the people of this nation. The ap-



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proach to this House ought to be by the avenue of purity. The eternal rules of right govern this question; and there is a moral principle that ought to govern every man who approaches this House, in which the majesty of the sovereign people, in their representative capacity, does reside.

Mr. RHEA's amendment was not decided when the House adjourned.

#### WEDNESDAY, January 14.

Mr. GAGE presented a petition of sundry manufacturers of paper in the State of Massachusetts, praying that a duty of two dollars a ream may be imposed on all paper imported into the United States.—Referred to the Committee of Commerce and Manufactures.

Mr. IRVING, of New York, presented a petition of the Mayor, Aldermen, and Commonalty, of the city of New York, praying that provision may be made for the adjustment and final settlement of their claims and accounts in relation to the defence of the city and port of New York during the late war with Great Britain, upon just and liberal principles.—Referred to the Committee of Claims.

Mr. LOWNDE, from the Committee of Ways and Means, made a report on the petition of Joseph Thorn, accompanied by a bill for the relief of Joseph Thorn; which bill was read and committed.

Mr. L. also reported a bill making appropriations for the payment of the arrearages which have been incurred for the support of the Military Establishment previous to the 1st January, 1817; and also a bill making an appropriation for the Military Establishment of the United States for the year 1818; which bills were committed.

Mr. T. M. NELSON, from the committee, to whom had been referred the Senate's bill extending the time for locating Virginia military land warrants, and returning the surveys thereon to the General Land Office, and for designating the western boundary line of the Virginia military tract, reported sundry amendments thereto; which were read and committed.

On motion of Mr. PARRIS, the Committee on the Judiciary were instructed to inquire into the expediency of requiring further security from the clerks of the several circuit and district courts of the United States, and providing by law for keeping the records of said courts, in the places where the same shall be respectively holden.

On motion of Mr. TARR, the committee appointed on so much of the President's Message as relates to roads, canals, and seminaries of learning, were instructed to inquire, and report to this House, whether any, and if any, what further provisions are necessary, by law, for completing that part of the United States' turnpike road lying between Cumberland in the State of Maryland, and Wheeling in the State of Virginia.

#### CASE OF JOHN ANDERSON.

The House resumed the consideration of the resolutions submitted by Mr. SPENCER, on the 9th instant, in relation to the case of John Anderson,

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and the question recurred on the amendment proposed by Mr. RHEA, and depending yesterday at the time of adjournment: whereupon, Mr. RHEA modified his said amendment to read as follows:

"That this House possesseth competent power to punish for contempts of its authority: therefore,

*Resolved*, That the Sergeant-at-Arms be directed to conduct John Anderson to the bar of this House."

And the question being stated to agree to the said amendment as modified—

Mr. CLAGETT spoke as follows:—After the elaborate and learned discussion of the subject under consideration, I should not, at this hour of the debate, trouble the House with any remarks, if, in the laudable effort to preserve the Constitutional privileges of this House, honorable gentlemen had been more particular in noticing the form as well as substance of the three resolutions lastly introduced, and upon which it will be our duty to decide. To these resolutions, sir, I shall, principally apply my remarks. The resolutions referred to are as follows:

1st. *Resolved*, That all proceedings against John Anderson cease, and that he be discharged from the custody of the Sergeant-at-Arms."

2dly. *Resolved*, That the Attorney General be directed to institute process against John Anderson, agreeably to the laws of the United States or of the District of Columbia." And,

3dly. *Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law for the punishment of any contempt of the Senate or House of Representatives, or any breach of privilege of either House."

These resolutions, sir, were originally introduced with a preamble attached to them; and though that preamble was yesterday withdrawn, the arguments were founded upon it; and the impression remains, and ought to be noticed. The preamble was in the following words: "This House entertaining great doubts of its possessing competent power to punish John Anderson for his contempt of this House, and his outrage upon one of its members, *Resolved*," &c. (as above.) Now, sir, with or without this preamble ought these resolutions to be adopted? Are they not incompatible with each other, and inconsistent with the proceedings and with the dignity of this House? Surely they are. These resolutions, taken collectively with the arguments, are predicated upon a breach of privilege, and contempt of this House, and an outrage committed against one of its members. Yet, by the first resolution, he is to be discharged! By the second, the Attorney General is directed to institute process against him, agreeably to the laws of the United States, or of the District of Columbia; when, in fact, we have been told by some of the advocates for his discharge, (and truly too,) that there is no law of the United States or of this District to meet this case. The third resolution evinces this fact; it directs that the Committee on the Judiciary be instructed to inquire of the expediency of providing by law for the punishment of any contempt against the Senate as well as this House, or any breach of privilege of either

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House. Surely, sir, we cannot adopt these resolutions without compromising the privileges and dignity of this House. Nay, sir, these resolutions presuppose an adjudication; when, in fact, John Anderson has not been fully heard; nor has he been pronounced guilty of an offence. And what have we to do with the privileges of the Senate; or they with ours? There can be no amalgamation of the privileges of the two Houses. And again, sir, if we adopt these resolutions, though we discharge him from the custody of our Sergeant-at-Arms, and direct the Attorney General (who has no law in the case) to institute process against him, we, virtually at least, pronounce him guilty, without having heard him in his defence; which I can never assent to. Let us, then reject these resolutions, as incompatible with each other, and irrelevant to the subject under consideration, and return to the process by which John Anderson was arrested and arraigned before us; and however unpleasant the task, let us meet the subject promptly. And now, sir, permit me, very briefly, to add a few words as to the power of this House in reference to its own preservation. But, first, I have been surprised that any should deny this power. Great eloquence and powers of rhetoric have been displayed by the honorable gentleman who deny this power. Great indeed must that eloquence be which shall convince me that this House has not such power; or that we are not bound, upon this occasion, to exercise it. Gentlemen have denied the right of calling to our aid either the *lex parlamentaria* or the common law. Sir, highly as I esteem the principles of the common law, I will lay that, together with the law of Parliament, out of the case; and, in support of the privileges of this House, stand or fall with the Constitution. The Constitution created this body as one essential branch of the Legislature of the nation. By a grant of power to legislate, all attributes necessary to its perfection, and its complete enjoyment of that power, are, *ex re nata*, also granted; and among the most essential of all attributes (and without which legislative powers could not exist) is the privilege of free and undisturbed deliberation: deprive this body of that attribute, and the power of legislation is at an end. It follows, then, as a necessary consequence, that a disturbance of deliberation is a breach of privilege. Affect one member, and the whole body is affected. Did not the House of Representatives of the United States so pronounce it, when, in December, 1795, they imprisoned Randall and Whitney for contempt? They did. And without such power the Government could not have existed. And what were the offences of those men? Similar to this of John Anderson, except that they were less aggravated. Those offenders attempted to corrupt members in their individual capacity; but this is an attempt upon the honorable chairman of one of your most important committees, who, as has been remarked, "holds the keys of your Treasury." Is not this an offence? Is not this a breach of the privilege of this House? Is it not an attack upon the purity and dignity of this House?

Surely it is; it is an act *malum in se*. Sir, I respect, and will defend, to the utmost of my power, the liberties and the rights of my constituents, and of my fellow-citizens at large; it is my duty, and I take pleasure in it. And I believe, by defending the privileges of this House, we preserve those liberties—yes, sir, and we defend the Treasury too. Let us, then, put a stop to attempts of this kind by the prompt application of a remedy. Let us preserve our privileges and our treasure from the grasp of unhallowed hands. Let us encircle this honorable member with our protection; and convince the nation and the world that this body has a due sense of its own integrity and dignity, and will punish for contempt—and that whoever has claims upon this body, or its committees, for justice, must approach, as to a pure fountain, with clean hands. And let us adopt the language of a learned and pious writer, "*procul, O procul este profani!*"

MR. WHITMAN, of Massachusetts.—It was not my intention to have troubled the House upon this subject. I had hoped that some gentleman, in the course of his remarks, would have embraced my view of it. I will not now, however, occupy much of your time. It is a few hints only which I would suggest.

I regret, sir, that the process made use of in this case had not received a different denomination. Misnaming things is not unfrequently a source of much error. If the process against John Anderson had been denominated, as it should have been, an attachment, which is its proper name, much of the perplexity which has so much disturbed the minds of some gentlemen would have been avoided. On resorting to the Constitution they would there have found nothing about probable cause, supported by oath, as a pre-requisite to the process. Making use of the term warrant, though erroneously, has occasioned gentlemen, not conversant with subjects of this kind, to apprehend that our proceeding was repugnant to the Constitution.

The proceeding by attachment for contempt is authorized by the principles of the common law. It is sanctioned by usage; by the practice of all tribunals of justice, and all legislative bodies. It is, in fact, this which makes the common law. Gentlemen seem much disposed to quarrel with this common law. But, sir, what is it? If gentlemen would like the phraseology better, it is nothing more nor less than common sense. It is that wisdom which is sanctioned by the experience of ages; which has been agreed to in all times, and in all places, as constituting the perfection of reason.

Gentlemen have said that the common law is unknown to the Constitution; that the Supreme Court have decided that it neither adopts nor recognises it. In this they certainly deceive themselves. In one of the articles of the Constitution it is provided, that no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law. Again, sir, the courts of the United States have cognizance of all suits between

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individuals not living in the same State, &c. Now, sir, there is no law pointing out the mode in which such suits shall be instituted, nor the proceedings to be had between parties litigating. Nor is there a single principle prescribed for the government of their decisions in an action of any kind whatever. Volumes, without number almost, would be requisite to contain all the principles which might thus be brought into operation. These are only to be found in the code of the common law. As to crimes against the United States, the Court may be considered as having decided that they do not exist unless pointed out by statute. Even in this opinion, however, the Court were not unanimous.

But, sir, no courts in the Union will more promptly proceed against individuals by way of attachment for contempts, than will the courts of the United States. And why is it so? It is because it is essential to the due exercise of the duties assigned them. If at any time Government appoints a body of men to perform certain specified duties, it, at the same time, of necessity, grants all the powers, whether specified or not, essential to their performance. The first law of nature, self-preservation, will as necessarily belong to such bodies as to individuals. What is this law of nature? It is the common law. It is this which has settled, defined, and prescribed its nature, its extent, and its limits.

Finally, sir, without the aid of the common law, it would be utterly impracticable to proceed one step under the provisions of the Constitution. It is interwoven with every article of it; and is predicated upon its known previous existence. Without it the Constitution would be a mere skeleton, without vitality. It is the very atmosphere in which it breathes, and without which it would expire as suddenly as would an animal without the atmosphere in which it breathes.

It will be conceded, sir, if an infuriated individual should be about to assail me, that I should have a right to seize and hold him till the danger of his doing me harm would be over. This is all that is claimed by this House. As to the matter of punishment, I shall not contend that we have anything to do with it. So far as it may be punishment to the individual to be restrained from doing harm, it is the result of necessity on one part, and of misconduct on his; but is not to be considered, by any means, in the nature of punishment for an offence, inflicted as such. If we find individuals lurking about our walls, besetting the members in their approaches to the House, or on their way from it, or at their lodgings, with views and in a manner calculated to disturb the fair and regular course of proceeding in transacting the business of legislation, it can make no difference whether it be by open violence or by more sly and insidious attempts. Will gentlemen say that the House cannot arrest and restrain such offenders? Shall we not have the same power as would an individual? Shall we not take the offender into custody, and restrain him till he shall have given satisfactory evidence that danger is no longer to be appre-

hended? In doing this we should merely, as we sometimes say in relation to property, sequester the individual for the present as a security or guarantee to our safety. This would in no wise be a trial, conviction, and condemnation, as for an offence.

Our opponents, to maintain their doctrine, are compelled to be at war with all precedent. We are exercising no other powers that have heretofore been uniformly exercised by the House. But we are never to have here anything like *res adjudicata*. However solemnly a question may have been decided, it matters not. The precedent in the case of Randall and Whitney is admitted to be precisely in point. It was decided by the House, upon the most mature deliberation, after it had been pending nearly three weeks, and by an almost unanimous vote. And yet this weighs nothing. We must now again go through a tedious discussion of a week or more, to arrive at the same result. It would certainly be better if we could have some principles acknowledged and settled for our government in cases of this kind.

Gentlemen had no hesitation when this procedure was first proposed. The sense of the House, upon its first impression, was unanimous in favor of it. How did this happen? Gentlemen will not say that they were surprised into it; that they were actuated by a momentary gust of passion, and were unmanned, and not governed by reflection. They cannot say this. Whence was it, then, that there was this perfect coincidence of sentiment? It was, sir, the force of habit, of education, of a uniformity of thinking and acting upon this subject throughout every part of this country, from which gentlemen are here assembled. It had its origin in the all-pervading influence and acknowledged principles of the common law. Every man knows that the legislative bodies of our respective States, without any statutory provision on the subject, but from the absolute necessity of the case, have uniformly, and without hesitation, exercised this authority.

It is not unfrequently the case, sir, that we find ourselves compelled to return to our first impressions. After losing ourselves for a time in a maze of reasoning, we find no resting place other than that from which we started. This, I am confident, must now be our case.

Before I sit down, I would beg gentlemen to consider the humiliating posture in which this House will be placed should we stay further proceedings. We must say, in effect, that we have done wrong; that we have violated the personal privileges of—whom? of John Anderson—and, sir, in that case, we could not stop there. The least we could do, would be to ask his pardon.

Mr. FORSYTH, of Georgia, said, he had the same claims to the indulgence of the House that had been urged by the gentleman from New York, (Mr. SPENCER.) He had been instrumental in procuring this discussion, by offering the resolution first adopted, in relation to John Anderson. The House had admitted the justice of this claim upon their attention in the one case

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and he felt assured they were willing to admit it in the other. He should, however, feel criminal if he much longer delayed the final decision of the question; and he rose not with a view to enter into the merits of it, much less to examine the different views in which it had been presented by the several gentlemen who had considered it. His first objection was to discharge an obligation to the gentleman from Pennsylvania, (Mr. SERGEANT.) The case of General Thompson, which occurred under the Old Congress, was cited by him; its force was attempted to be weakened by his colleague, (Mr. Ross,) who thought it was a case clearly within the privileges of Congress, as defined by the Articles of Confederation. An extract from the records of that day, would show this to be a mistake. General Thompson came before the Congress of that day, on a charge of a breach of the express privileges of its members. In the course of the investigation he committed a violation of the privilege of the body. The resolution, with a preamble, adopted, was:

"A memorial from Brigadier William Thompson, having been read, and it appearing that the said memorial contains opprobrious language against, and scandalous reflections upon, the character of a member present in Congress: *Resolved*, That the said Brigadier William Thompson has, by offering the said memorial, been guilty of an insult to the honor and dignity of this House, and a breach of its privileges."

This was adopted, after an attempt to get rid of it, by a call of the previous question, by a vote of seven States to two, and two were divided; the numerical vote was eighteen to seven. Among those in favor of the resolution, were some of the members of the Convention who framed the present Constitution. It was, therefore, a judgment pronounced by the Old Congress, on the very point now at issue. While the attention of the House was directed to that august assembly, he asked leave to point it particularly to the proceedings of that body at a subsequent period, to show how far their privileges and their powers were believed to extend. In the year 1783, after the disbandment of the regular army, a few factious soldiers, among the new levies of the Pennsylvania line, marched to Philadelphia, and were joined by part of the army stationed there, to compel the President and Council of the State to grant certain demands which they presented. It so happened that they appeared around the house in which Congress was sitting, but without any intention to control or disturb its proceedings. What course was adopted? Their own resolutions will best explain their conduct and its motives. The first resolutions were:

"*Resolved*, That the President and Supreme Executive Council of Pennsylvania be informed that the authority of the United States having been this day grossly insulted, by the disorderly and menacing appearance of a body of armed soldiers about the place within which Congress were assembled; and the peace of this city being endangered by the mutinous disposition of the said troops, now in the barracks, it is in the opinion of Congress necessary that effectual

measures be immediately taken for supporting the public authority.

"*Resolved*, That the committee on a letter from Colonel Butler, be directed to confer, without loss of time, with the Supreme Executive Council of Pennsylvania, on the practicability of carrying the foregoing resolution into effect; and that, in case it shall appear to the committee that there is no satisfactory ground for expecting adequate and prompt exertions of this State for supporting the dignity of the Federal Government, the President, on the advice of the committee, be authorized and directed to summon the members of Congress to meet on Thursday next, at Trenton or Princeton, in New Jersey, in order that further and more effectual measures may be taken for suppressing the present revolt, and maintaining the dignity and authority of the United States.

"*Resolved*, That the Secretary at War be directed to communicate to the Commander-in-Chief the state and disposition of the said troops, in order that he may take immediate measures to despatch to this city such force as he may judge expedient for suppressing any disturbance that may ensue."

It appearing that the President and Council of Pennsylvania did not or were unable to take the necessary measures to correct and punish the violators of the rights of the State sovereignty, and the authors of the contempt of the Federal authority, the President assembled Congress at Princeton, and the first act after their meeting was to adopt another resolution, directing General Howe, and one thousand five hundred men, to march to Philadelphia, suppress the mutiny, arrest and punish the soldiers who were concerned in it, and disarm all who were engaged in it. This order was executed by that officer, and the soldiers subsequently pardoned by Congress for the share they had in the transaction. Here was a practical illustration of the doctrine of the privileges of a legislative body, of a Congress, not a collection of ambassadors, the only species of Congress which occurred to the gentleman from New York, (Mr. SPENCER,) but a Congress vested with legislative powers, and acting under the Articles of Confederation, the chrysalis of the Constitution of the United States. Could it be imagined that those members of that Congress, who were subsequently of the Convention, would have passed the Constitution from their hands, without ingrafting into it this protecting power, if they had not believed it was the necessary incident of the creation of the legislative bodies, and the consequence of the duties assigned to them, respectively? Mr. FORSYTH would detain the House a few moments on the merits of the question, endeavoring to avoid a recurrence to those arguments which had been already presented. The decision about to be made, was no longer a test of the capacity of this body to protect itself; it went much deeper; if affirmative, it struck at the root of the most important power vested in it by the Constitution.

The duty imposed by the Constitution to legislate for the Union, and provide for the various interests of every class of the community, and while making this provision to avoid improper sacrifices of the one to the promotion of the

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others, was at once both arduous and delicate; but this House was vested with still higher duties. The framers of the Constitution, convinced, by the experience of all other nations who have attempted to establish free Governments, of the danger to which liberty is always exposed, thought it necessary to guard against the encroachments of arbitrary power. Judging that the time might arrive when a President would conspire with corrupt and ambitious men, of his own country or of a foreign nation, to change his temporary and limited authority to a permanent and despotic power, they supposed a sufficient barrier was erected to defeat such conspiracy, by giving to this House the power of impeachment, and the Senate the authority to judge and punish the offender, when brought to their bar by the charges of the Representatives of the people, and convicted by proper evidence. Has it not occurred to the members of this House, especially to those who support the resolutions on your table, that the efficacy of this provision resides wholly in the power of this House and of the Senate, respectively, to issue process of attachment for contempt? Strange as it may appear, the truth of this proposition is beyond dispute. But, for this now called dangerous and alarming stretch of our Constitutional authority, the terrible engine of impeachment is a bugbear to frighten childish corruption; but the scorn and contempt of full-grown villainy. A practical illustration will best show the correctness of this position. A President forms treasonable designs against the United States. By one of those fortunate events which, in the order of Providence, usually occurs to defeat the machinations of guilt, a partial discovery of the design is made, and an inquiry is instituted; you ascertain the sources from which accurate and certain information is to be procured. How are you to compel obedience to your call upon the witnesses, who are known to possess all the information necessary for your purpose? How are you to compel the production of the treasonable correspondence in their custody? By attachment for contempt. Sir, it is vain to say we can provide by law for such an occurrence. Such provision is impossible. You may make laws, but these laws are nugatory. You may provide penalties, but to inflict them must be judicial process, trial, conviction and sentence. The inevitable delay is ruinous to the country, and gives to the traitors the time to consummate their horrible designs. But even the guilty witness, the contemner of your authority, escapes the punishment provided by your law. The same Constitution under which you defined his offence, and annexed an appropriate punishment, gives to the President, for whom he commits it, the power of pardoning the offender. You have the consolation to know that he is convicted, and he has the consolation of laughing at an impotent branch of the Legislature, called, in derision, the Grand Inquest of the Nation! It is not impossible, however, but that sufficient evidence may be procured to justify the exhibition of articles of impeachment. They are carried to the Senate. How is

this august body to perform its functions? How will it compel the appearance of the accused, and the attendance of the witnesses? By process of attachment for contempt. Can any legal provision be made so effectual as to render a resort to this process unnecessary? Or rather, is not such resort indispensable, both to the safety of the country and rights of the accused? If regular judicial process is essential, you must apply to the courts of the Government; and we should see the novel and ridiculous exhibition of the highest court of criminal jurisdiction in the nation, applying for the enforcement of its authority to the subordinate tribunals. It may be objected, however, that these remarks apply solely to the case of crimes, in the examination of which the two Houses of Congress are *quasi* courts, and as such have the ordinary powers of courts. This objection cannot be made by the friends of the resolution, and if made by others is not satisfactory. It is not applicable to the subject of the present dispute. On all claims presented by individuals, *vs.* the General Government, Congress is a court of civil jurisdiction, to decide justly between the parties. To perform this duty, so far as it regards the compulsory production of evidence, it must be vested with the same powers. The members of its Committee of Claims may, without a violent metaphor, be considered as masters in chancery, whose duty it is to report facts in every case to the House, and the rules applicable to them. Certainly this resemblance is quite as strong as the resemblance between this House and a court in the originating impeachments.

But Mr. F. was apprehensive he was trespassing on the already exhausted patience of the House. He prayed its members not to be deterred from exercising a necessary authority, by the fear of incurring the charge of stretching their personal privileges. For his own part, he was not disposed to extend personal privileges a hair-line beyond the limits of the Constitution. The distinction between the privileges of the House and the individual had been accurately distinguished, and there was no danger of confounding them, while the Representatives of the people were disposed to do their duty. When they were not, there was another corrective in the power of the people. To justify their conduct, we have the example of the Old Congress and of the House of Representatives in many instances since the adoption of the new Constitution, and the examples of the State Legislatures in similar cases. He did not refer to these as examples merely, but as arguments to support the construction which was given to the Constitution by those who had exercised, and are now willing to exercise, this necessary authority. To deter us, we have the arguments drawn from the list of personal privileges in the Constitution, that these were all that the Constitution intended should be given or enjoyed; while those who use the argument are compelled to acknowledge a necessity for the exercise of greater power to protect the House in the execution of its duties—an acknowledgment so inconsistent with their

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doctrine, that they resort to a variety of expedients to obviate the consequences of the admission. The most ingenious of these is that of the honorable gentleman from Virginia, (Mr. BARBOUR,) who finds an authority to preserve decorum in the galleries of the House in the clause which authorizes each body to form rules for its government. As we have the right to say to the people whether they shall come into the gallery, we have the right to prescribe the terms upon which they shall be admitted; and in directing our Speaker to preserve order, we have prescribed these terms. A short examination will show that this is only plausible. The term of the Constitution, *House*, is metaphorical; it means the members, collectively, in each body. The power to prescribe rules for each House cannot extend, therefore, to any person who is not of the House. Persons in the gallery are in the Hall, but they are not of the *House*; and an extension of the rule to embrace the persons in the gallery, is stretching the meaning of a term in the Constitution much further than we are disposed to extend its incidental powers. But this argument rests upon another ground; that, having a right to prohibit their entrance into the House, we therefore have a right to prescribe the terms upon which they shall be admitted—a sort of contract well understood and perfectly explained by the sweeping power given to the Speaker to preserve order. This power given to the Speaker is but the echo of the Constitutional provision, and, like it, applies to the members and officers of the House, and not to the building. The visitors in our gallery are not parties to the contract. The idea of contract for decorous behaviour, whose consideration is a seat in our gallery, is at least a novelty. Contracts were, he believed, never made for the prevention of disorderly conduct. The fallacy of this reasoning must be obvious to those who would consider the necessity of going beyond the *House* to preserve decorum. In the street we have no right to prescribe terms, since that is common property; and if annoyed, then the House must submit, unless by virtue of our exclusive legislating power over the District this also is included in our authority to prescribe the terms of contract into which the citizens shall enter who come into it. From this, follows again, as a corollary, that the same authority is possessed wherever the Congress of the United States has exclusive jurisdiction—over all forts, light-houses, and over the Territories of the United States.

The gentleman from Mississippi (Mr. POINDESTER) has endeavored to find the true distinction, and supposes that he discovers it in the power to prevent or punish any offence which prevents a member from performing his duty. If he is disabled by beating, the party inflicting the chastisement is punishable by the House. It was well remarked by the gentleman from Virginia, (Mr. SMYTH,) that the member from Mississippi did not say what was to be done if the member was not disabled; but the inference is irresistible, upon his own principle, that the offender is not punishable if inability of the member is not the con-

sequence of the offence. The example produced of an escape from death by a member who was shot at and missed while coming to the House, to prevent his attendance, illustrated fully the weakness of this distinction. Mr. F. said he considered that the rule must be founded on the connexion of the offence committed on a member with his duties to the House. If any member should forget his own character, and insult a citizen, he had no right to protection; and if beaten, the House ought not to interfere. But if a blow, or a threat, or improper means of any kind, were used to prevent a member from attending to discharge his duties, or to control the free exercise of his judgment, the person offending was amenable to this body for a contempt of its privileges, and punishable by attachment for contempt.

Mr. F. apologized for the desultory remarks he had offered on this subject. The resolutions were altogether unexpected, when introduced, and his observations upon them were the crude suggestions of the moment. He had ample time since to arrange and digest his ideas on the subject, but could not have given them in this shape, without bringing again into view the same considerations which had been already presented, in the strongest light, by those who preceded him in the discussion.

Mr. BEECHER spoke as follows:—Mr. Speaker, I have now the possession of the floor. Although at a late period of the debate, it is the first convenient opportunity that has occurred since the question has been presented to the House in its present form. I have nothing to offer as an apology for the exercise of this right, but its intrinsic value and the importance of the principle in discussion; nor can I promise that the time I shall require the attention of the House will be momentary. I hope to say something pertinent, instructive, and worthy the candid attention of this assembly. My views and feelings relative to the question are known to those who hear me, and, perhaps from a pertinacious and an unwise adherence to my own opinion, in opposition to the exercise of a power that generally seems to be recognised as legitimate. My practical political information is very limited, and my acquired knowledge, relative to matters of this political moment, is too circumscribed to make me comprehend and elucidate my views of this controversy in the manner it is susceptible of, or with any hopes, at this time, of success, when I am advised of the phalanx of talents that are in array in opposition, composed of men who, from experience and application, have meritoriously acquired a commanding reputation and influence. Now, also, I am justified in saying there are those here who coincide with me in opinion, who have acquired, and worthily have, the reputation of being men of talents and information, and who, in the expose of this question, have most amply evidenced that it has not been obtained unmeritedly; and others who, by their labors on this occasion, have richly entitled themselves to the honor of being registered among the literati and statesmen of our country.



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Mr. Speaker, there have been some suggestions brought into this discussion by the gentleman from Massachusetts (Mr. HOLMES) that I am unwilling to let pass unnoticed. He has said that the friends of John Anderson are all at once transformed from indignation to sympathy, and that the thunder of eloquence is heard in behalf of liberty and the poor oppressed Anderson. But, when an honorable member of this House is scandalized by a foul attempt to corrupt us, they are composed, mild, and gentle as May, &c.—directly charging those who are opposed to the exercise of the power, with being governed by motives of friendship for the accused, and of being associated in feelings with, and in favor of, a man charged of being guilty of acts subversive of every moral and honorable principle, and such as demonstrate him to be destitute of these, and those charges supported by the most honorable and disinterested evidence; and not only this, but that they are devoid of the common and ordinary feelings of respect for themselves, and honorable men, and for virtue! To that gentleman, and to those who have heard this debate, appertaining to our power, privileges, and dignity, I leave it to be decided, whether those imputations (if without foundation) are not an attack more flagrant and outrageous, upon the honor and integrity of the persons to whom they are applied, and upon the dignity and privileges of this House, than are the doings of John Anderson as charged upon him. I will cast the mantle of charity over this gentleman, and say, that I do not believe he intended any disrespect to the House, or any member; but that, incidentally, those expressions were used to make a beautiful sentence, and to give himself the fortunate opportunity to round it off with a couplet of pastoral verse.

Mr. Speaker, it has been alleged and urged, as conclusive, against those who object to the exercise of this power, that they do not agree in the grounds of objection, and that, therefore, they are wrong, and we have the power. I do not agree that the allegation is correct; for I believe our objections have been only and generally that we find no express grant of the power in the Constitution, nor the grant of any power, in the exercise of which, necessarily, we must have and exercise this power—that it was a power not in its nature legislative, but judicial, and, as such, belonged to another department of the Government, the judiciary. And, by way of illustration, we have contended that, in the exercise of this power, we must combine and exercise the powers of the several departments of our Government in the one; and, therefore, it is dangerous to civil rights and liberty, and also destructive to the beauty, harmony, and order of our political institution, as ordained and established by our Constitution. But, admit the charge to be correct, is the conclusion inferrible, or reasonable, or, in truth, can this course of argument have any weight? But, on the contrary, may we not return the argument on the gentlemen with great propriety and force, if they have not concurred in the source from whence they have a right to

exercise this power? They have the affirmative, and are required, in the course of argument, to show from whence the authority comes, and where the grant is constituted and given. They admit we have no powers or privileges, but by a grant derived from the people. Have they not derived it in argument from almost as many sources as there are persons that have taken part in this debate? Those who opened the discussion on the side of power, rested themselves upon the Constitution, and on an inherent power growing out of the creation of this House, and here only did they contend for the grant of the power. From this position, and these pretensions, they were completely beaten by the clear, impressive, and illustrative arguments delivered by the gentleman from Virginia (Mr. BARBOUR.) Others claim to find it in the common law, and from the usages and customs of Colonial and State Legislatures, and from the law and power exercised by the courts of judicature. Another from the law of necessity; another from the law of self preservation; and another from precedents. Thus variously and adroitly have gentlemen taxed their talents and learning to find the grant of this power. If, in a court of justice, a person should demand a specific article, or right, and should claim his right to demand, sometimes upon one ground; and, at other times, upon different and variant principles, we should at least be constrained to say, his title was doubtful, and inevitably against him, if he claimed to have it, if at all, from an acknowledged instrument, in which the demandant's pretended right was not expressly recognised, and that such instrument contained these terms, "the powers not delegated to the grantee by this instrument, nor prohibited to the grantor, are reserved to the grantor."

Mr. Speaker, gentlemen have, in a considerable degree, relied upon the common law. I contemplate to derive much aid in this controversy from the same source. It becomes necessary, therefore, that we come to an understanding of what is meant by the common law. The common law is of great antiquity—"It is the offspring of time. Time is said to be the wisest of things; and if the child partakes of the qualities of the parent, it may, with propriety, be pronounced to be the wisest of laws." In a general sense, the common law cannot be said to have its origin in or from any particular country. It has existed, and been respected at all times, and in every country where civilization and knowledge have had influence. This law is a set of rules and principles resulting from experience and necessity. At different times and places, the law will be dissimilar. It is characteristic of a system of common law, that it can be accommodated to the circumstances, the exigencies, and the conveniences of the people by whom it is appointed. Its authority entirely depends upon its being received, adopted, and approbated. From the history of the common law, in ancient or modern legal history, you will find it, in its converging course, run into one uniform system, mellowed by time, and improved by experience. It is a

law produced, extended, translated, adopted, and moulded, by practice and consent. This law is nothing more than the history of experience, and to it all wise men will resort for instruction and information; and from it, they will be able to select a course and principles that are just, useful, and necessary; and to avoid such as are dangerous destructive, and pernicious. It is an inestimable quality of this law, that it is progressive in improvement, unless restrained by the rude hand of ambition. The common law of different Governments, in many respects, necessarily must be different, the fundamental systems being unlike; but, as they approximate each other in this respect, will their common law assimilate, and will be resorted to for instruction and example by each other.

Common law may, with propriety, be said to be an auxiliary to the written law. It does not contravene or control the written law, but is resorted to as a helpmate in the construction and application of the written law.

The common law of England, as an entire code, has never been adopted in any of the United States, nor even while they were the colonies of England. The history of the past settlements in America, will amply confirm this idea. Several of the provinces, by a compact, and others by a legislative act, adopted for their government the statutes and common law of England, so far as they were applicable and consistent with their condition. The written and unwritten law of England, as respects the absolute and relative rights of persons, and the administration of justice, are not dissimilar to those adopted in these United States. Indeed many of the written laws of the United States are either in substance copies of the English statutes, or declaratory of the common law of England. Therefore may our courts, in those respects, look to the experience to be found in those proceedings for information and instruction in doubtful matters of controversy; but not for the purpose of finding the law of this country, or a rule from which they cannot depart. Much of the written and unwritten laws of England are absurd, and derogatory to, and subversive of, the natural and inalienable rights of man, and repugnant to the most valuable and fundamental features and principles of our Governments and institutions; and particularly so in regard to the origin of fundamental power, and the distributive and limited exercise thereof. Those laws, and the proceedings under them, are to be known and consulted by all in authority here, only with the view to avoid them. The criminal law of England is much more rude and imperfect than the civil. The penalties of those laws are uncertain, arbitrary, and, in an extreme, sanguinary. Such laws are not adapted to the genius and nature of our Government, and are only the fit appendages of a Government based upon power, and continued by a tyrannical exercise of it. The history of the criminal law in these United States will furnish a clear illustration upon this subject. The criminal laws have

been progressively meliorated. The discretionary and sanguinary features have steadily been giving place to certain, fixed, and humane principles and laws. Much yet remains to be done before our criminal laws will have acquired a proper finish.

The importance and necessity of certainty in the criminal law, are well expressed by a great teacher in these words: The knowledge of this branch of jurisprudence, which teaches the nature, extent, and degrees of every crime, and adjusts to it its adequate and necessary penalty, is of the utmost importance to every individual in the State; for no rank or elevation in life, no uprightness of heart, no prudence or circumspection of conduct, should tempt a man to conclude, that he may not, at some time or other, be deeply interested in these researches. The infirmities of the best among us, the vices and ungovernable passions of others, the instability of all human affairs, and the numberless unforeseen events which the compass of a day may bring forth, will teach us, upon a moment's reflection, that to know, with precision, what the laws of our country have forbidden, and the deplorable consequences to which a wilful disobedience may expose us, is a matter of universal concern. In proportion to the importance of the criminal law, ought also to be the care and attention of the legislature in properly forming and enforcing it.

Mr. Speaker, I have thus briefly attempted to show that the criminal common law is inapplicable to our just ideas of criminal law, and that, upon general and correct principles, it ought not to be recognised. But, I also contend, that the Federal Government has no criminal common law; that no person can be punished by the United States for the doing any act, other than such as are made criminal by the Constitution, or some statute of the United States; and that the United States courts have no common law jurisdiction in criminal cases. These positions are sanctioned by the opinion of Judge Chase, in 2 Dallas's Reports; by Chief Justice Marshall, in the case of *Livingston vs. Jefferson*; and by the court in the case of *Bollman and Swartwout*; by Judge Tucker, in his appendix to the 4th vol. *Black. Com.*; and, by implication, from the law of Congress giving to the court the power to punish contempts. Yet, I admit it is necessary, prudent, and wise in our courts to resort to the common law for forms of proceedings, and to ascertain the legal and technical meaning of the terms and words used by the legislature in their criminal laws, as we refer to the common English dictionary for the precise meaning of a word, it being evident, and reasonable to believe, the terms and words were adopted by the legislature, to be understood in that sense; but that our courts are to look to the common law for a catalogue of the crimes, and the pains and penalties to be punished and inflicted in this country I utterly deny.

The gentleman from Virginia (Mr. MERCER) passed many very flattering compliments upon

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the common law to recommend it to our consideration. For the same purpose, I will attempt a definition of the common law—and permit me to adopt the most ancient within my recollection, but one that has been accepted as correct by all its advocates, from that time to the present day. Plato defined the common law to be, that which was taken up by the common consent of a country; that it was the golden and sacred rule of reason; and that it is nothing else but common reason—that refined reason, which is generally received by consent of all. Sir E. Coke, after saying much in commendation of the common law, concludes with this: “No man ought to be wiser than the law, which is the perfection of reason.” Chief Justice Marshall, in the case before cited, defines the unwritten law to be, “Human reason, applied by courts; not capriciously, but in a regular train of decisions, to human affairs, according to the circumstances of the nation, the necessity of the times, and the general state of things.” And this reason, which is the body and soul of the common law, is not the knowledge, experience, or information of any one man; but it is the knowledge, and experience, and information of many, arising from lights, mutually and successively communicated, improved, and improving. With this view and understanding of the common law, I will call the attention of the House to some principles of it, which I hold to be peculiarly applicable to us as a nation, and, with a striking aptitude, apply and explain the present controversy; that the legitimate power of government is in the people to be governed; that, for the purposes of government, it is necessary for the people to grant to certain portions of themselves limited powers, to be exercised for the advantage of society; that the powers delegated should be distributed into proper departments; that the departments should be kept distinct, and to be exercised by different members; that unlimited and discretionary powers are dangerous, and ought not to be permitted, and that powers not granted remain with the people. The predominancy of those principles was the substantial causes that led to the adoption of the several State constitutions and this federative compact. Gentlemen have said that we must resort to the common law to enable us to understand the terms used in the Constitution. I am ready to admit the fact, and will go further, and say, it is the key by which you open the windows of the Constitution, and are enabled to comprehend exactly the powers allotted to the several departments established by that instrument.

Mr. Speaker, liberty and civil rights have, on either hand, a threatening enemy: on the one, tyranny; on the other, licentiousness. In order to guard against the latter, proper powers ought to be duly distributed; and it is not less important, that the judicial should be distinct from, and independent of, the legislative department. To these leading principles the people of the United States have, in forming the Constitution, manifested the highest regard.

They have placed the judicial power not in Congress, but in courts. The Congress are to make laws, commanding what is right, and prohibiting what is wrong; and the courts are to apply, according to the principles of right and justice, the Constitution and laws, to matters of controversy between the Government and individuals, or between individuals. These general positions I deem correct and pertinent, and will be properly applied, without further attention on my part.

May it please—Sir, I had nearly adopted a mode of address more familiar to me, but not so customary in this place. Indeed, it is doubtful what is the proper form to be adopted in the present form of proceeding. Legitimately and constitutionally, I know I am required to address you by the honorable appellation of Mr. Speaker; but, constructively, I am admonished by the character of the present proceedings, and the arguments of gentlemen opposed to my opinion, that I am bound to address you in the common-law language of, “may it please your honor.” On my left, a member in his place says he, as a member of this court, is anxious to express the reasons which will govern him in giving judgment in this cause; on my right, another declares we are now sitting as a court, and as a judge he is bound to presume the accused innocent until he is proved guilty; and, on every side, the advocates for power pronounce that we are acting in a judicial capacity. That this House can be transformed into a court, and thus organized, proceed to accuse, arrest, try, and adjudge a citizen guilty of an offence, is an idea that deserves much consideration before it is accredited. Let us not deceive ourselves by the use of words. Are we a court of the United States? Such we must be if we are a court at all. A court is designed to be a place where justice is judicially administered. In what manner is the judicial power of the United States to be exercised, and by whom? The third article, first section, of the Constitution, will answer this interrogatory, which is in these words: “The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress may, from time to time, ordain and establish.” This, I apprehend, is a full and entire disposition of the judicial power appertaining to the United States. This House is not the supreme or inferior court, contemplated in the Constitution. The Supreme Court is established by the Constitution; Congress has the power to establish inferior courts, but this can only be established by a law; and by a law Congress can make neither itself nor either branches thereof, a court. Because the judges to be appointed must be nominated by the President, if of the Supreme Court, and appointed by the Senate; if of an inferior court, may be appointed by the President, by the courts of law, or the Heads of Departments, Congress adopting a law to that effect. When thus appointed, to hold their offices during good behaviour.

The second section of the third article defines the judicial power vested in the courts, by the

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first section of the same article. The judicial power shall extend to all cases in law and equity, arising under this Constitution, the laws of the United States, &c. This House charge, that a citizen has been guilty of committing an offence, for which he ought to be punished. Legal guilt consists in an act committed or omitted, in violation of a public law, either forbidding or commanding it. Every crime is a breach and violation of a public right and duty, for which the public has the remedy; and, in this country, the people are the prosecutor. The criminal act done may, as is most usually the case, have been an injury to an individual; for this he has a civil remedy, but the injury to the public must be redressed by a public prosecution. And this prosecution is a legal inquiry into the guilt or innocence of the accused, and is only and properly cognizable by the judicial power.

This view demonstrates that it is a judicial power that is sought to be exercised, and that there is no express grant of the power to this House in the Constitution, but expressly to the courts. But the gentlemen from South Carolina and Virginia (Messrs. LOWNDES and TUCKER) say it is to be had by a liberal construction of the Constitution. It appears to me to be an unprecedented liberality of construction that is demanded in this case.

By construction, a certain power is desired to be given to one department that is positively vested in another, by the same instrument; and the power is sought to be exercised by a department, diametrically repugnant to, and inconsistent with, the letter and spirit of the Constitution, and, I conceive, in violation of every settled rule of construction. The plain import and meaning of the words and parts of an instrument, taken together, is the legal and binding effect of it. And if, by an inartificial use of terms or sentences, difficulty, or an ambiguity arises in construction, a resort may be had to the objects intended to be obtained by the parties to the instrument, to remove the apparent difficulty or ambiguity, and thereby so to construe it as to attain the purposes intended. There are no words or sentences of a doubtful or of an ambiguous meaning used in the Constitution, in the constituting and granting the general powers of Congress, it being entirely legislative; but, in the extent it may legislate, there may be room for doubt and construction. The power of legislating, in a limited extent, is vested in Congress, and that alone; except in certain particular cases, which are in the express terms granted, but not necessary here to be considered, not in any manner affecting this question, only as showing the opinion the framers of the Constitution had of the necessity that existed of specially giving the power to the legislative department, of acting in instances not properly and clearly belonging to such department.

It is contended that, inherently, this House possesses the power to punish for contempts and breach of privilege—to support this idea, gentlemen have resorted to the law of nature, the law of necessity, and the common law, as recognised

by courts of justice in punishing contempts. Each of those considerations requires examination. That man, in a state of nature, has the right to protect himself, and that it is his duty to exercise that right, is not denied. It is equally correct, that man, in a state of nature, has the right of chastising such as do him an injury, and to redress his wrongs in all and every respect in his power; but how far are these principles recognised in civil society? To the extent they have been adopted, I will allow gentlemen to have the use of them; but, so far as they deduce arguments from natural law, that is inapplicable to a state of civil society, I demand that they be rejected. To what extent is the law of self-protection recognised by our municipal law? It authorizes an individual to use all necessary force to prevent and protect himself or his property from actual attempted injury; but if, in his person, reputation, or property, he has received an injury, he is not permitted to redress himself by force. For this, however great the indignity, however great the injury may have been to his feelings, property, or person, he must apply through the law to the courts of justice for a remuneration. The natural inherent right of redress, is surrendered by man upon entering into civil society, and the society engages by proper laws to secure to the injured party a legal remedy for individual injuries, and reserves to itself the power of declaring such acts criminal as policy may dictate, for the peace and honor of society, and to inflict all necessary pains and penalties to insure the enjoyment of individual and public rights. The law secures to every member of society the possession and use of his property in such manner as shall seem proper to himself: provided, such use is not inconsistent with the rights of others; therefore, a person rightly in the possession of a house, may exclude every other person at his pleasure, and he may by force prevent any one from entering against his will; and in case the proprietor may have consented, in the ordinary course of civility, to admit another into his house, he has the right to order him to depart, and upon a refusal may use every necessary force to remove him; and if the trespasser's physical force is superior to that of the proprietor's, he may call to his aid his servants or friends, and, by their assistance, remove the intruder; and, in thus doing, they will not be answerable to the person removed for any injury he may have sustained in the encounter, provided they did not use unnecessary force; yet, if the intruder had done injury to the house, or to the possessor, he may have his action and recover the damage received, in the due course of law; but he could not recompense himself by taking property from the trespasser, nor imprison, or in any other manner punish him for the indignity done to himself or to the peace of society. The remedy for this belongs to that society of which he is a member, and to which he had gave up the natural and inherent right to redress and punish; and this is to be accomplished by criminal laws and prosecutions.

It is a right secured to every member of society

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that he shall enjoy his possessions uninterrupted, so that if his mansion, out-house, or yard, is attacked by the rude and lawless, in a riotous and boisterous manner, he may use all necessary force to remove such interruption; and if, to prevent the injury, it becomes necessary, he may capture the wrong-doers and detain them in custody such reasonable time as it may require to deliver the offenders over to the civil magistrate. But the injured individual cannot try and adjudge the offending individuals guilty and inflict punishment. If a man's person is attacked with force, he may defend himself, and, if capable, prevent the impending injury. This is what may properly be denominated a preventive remedy; notwithstanding, by a resort to this remedy, an injury may not have been effected to the extent intended, yet for the injury received there is a legal remedy, and for the malignity done to the laws of society, the public has the right to punish the offenders. There are many injuries and indignities which one man may offer to another, and the one thus assailed has no remedy other than such as the law furnishes—as if one man should offer another a bribe, or inducements to commit perjury, or any other immoral or criminal act. The law does not allow the injured or insulted person to castigate the miserable agent of this turpitude, nor has he any remedy at law for his wounded feelings or the indignity offered. The preventive remedy is the noble exercise of his moral and intellectual faculties in indignantly rejecting the offer, and this is the safe and substantial remedy against corruption and degradation. Policy dictates that such practices should be made criminal by law, and then the public will have the power to punish, and by example and coercion rescue individuals from such insults. A person's reputation may be injured in the most wanton and insulting manner in his presence and hearing, and yet he has no power to redress himself only by an appeal to the law.

In case a member of society apprehends and believes that certain individuals meditate and intend to do him a personal injury, the law does not permit him to seek out such secret enemy and by force disable him from doing the intended injury, but he must apply to the civil magistrate for that purpose. Thus it is demonstrable that the law of self-protection is not recognised by our municipal law farther than to the repelling instant force by instant repulsion as a preventive, not a punishing or a remunerative power, except in the reclamation of property that has been feloniously taken, or in the instant caption of felony and notorious offenders, for the purpose of being delivered up to the civil magistrate.

Having so far as is connected with this question considered the rights and remedies allowed to persons in civil society, I will inquire what character and place this House (technically) holds in civil society. The law recognises two descriptions of persons—natural and moral, or artificial. The latter in legal language are called corporations, and are described to be persons in a political capacity, created by law. These moral

persons are not in a state of natural liberty, but are subject to the law; theirs is a civil existence; their rights, powers, and privileges, in many respects, are the same as have natural persons, and in no case do they possess the power to control or examine the conduct of natural persons in a greater degree than can another natural person, unless by a special grant made by law. Corporations are public and private, aggregate and sole—aggregate where composed of two or more natural persons, and in its organization, has one of its members designated as its head, who as such is the efficient agent of this moral existant. This class includes the House of Representatives. This corporation is erected by the Constitution, and made an independent branch of the legislative department of this Government.

These moral personages cannot commit crimes, cannot be punished, cannot be bribed, nor cannot be seen or handled; these members may be beaten and may be injured like other natural persons, and have in their individual capacities the same physical and legal remedies, and none other, or greater, unless expressly granted to them; neither has the corporation in its corporate capacity any cognizance of those natural persons who may have injured any of its members, unless by special grant—inherently nor incidentally, constructively nor by implication, can such a power be obtained. It is an exercise of sovereign power. The power assumed is substantive, not collateral, and, according to the principles upon which Government and legitimate power is said to exist in this country, cannot be had but by grant. Any act done to a member of a corporation that amounts to an offence or crime, or a breach of the peace, is, in a legal point of view, an injury to the public, for which the remedy is a public prosecution. The idea that it is also an offence against the corporation, for which it can punish and imprison the offender at discretion, is to me novel, and fraught with many dangers.

If the individual or the corporation sustained any injury or damage, they have their legal remedy in the courts of justice.

To what extent those moral persons may or can own, or possess, real or personal property, depends entirely upon the purposes for which the incorporation was made. But, it may be asserted as a fact, that every public aggregate corporation must necessarily possess an house, and this possession gives to the corporation the entire and absolute control of it to every extent that a natural person could have. But, says the gentleman from Pennsylvania, (Mr. HOPKINSON,) this is not our house, it is private property, we cannot use it as we would our own castle. This doctrine is certainly incorrect, for I hold it a clear principle in law, that a person having the possession and the right to possess an house, although not the proprietor in fee, that he may exclude all persons from such house, or such part thereof, as his pleasure may deem necessary and convenient.

And this House has recognised, and is now daily in the exercise of such power, in obedience to the 12th rule, which provides "that no person,

except members of the Senate," &c., shall be admitted within the Hall of the House of Representatives; and by the 11th rule, this House has declared, that in case of any disturbance or disorderly conduct in the galleries or lobby, the Speaker shall have power to order the same cleared; and frequently has this House exercised the right of closing the doors and excluding all without distinction. Thus, I apprehend, it is an acknowledged principle, that natural and artificial persons have the right, at their pleasure, to exclusively possess their domicile, and may use necessary means to remove or exclude others therefrom. This House, therefore, having this right and power, it is sufficient for all necessary and useful purposes. It has been found adequate to the protection of individuals, aided by law and the ordinary administration of justice; and can it with propriety be said, that for the purposes of protecting this House, the favorite of the nation, from insult and disturbance, it is necessary that it should be endowed with increased and extraordinary powers? I most confidently hope not. The natural and substantial protecting power for this House is to be found in the public opinion, the affection and respect of the people, and in the sense and judgment of all good citizens, which will at all times surround, strengthen, and protect it (if we faithfully pursue the objects for which it was instituted) more effectually than an host of armed warriors, or than the fancied magic charms of inherent powers. I know that at times partial interruptions and disturbances may occur in the galleries from inattention, accident, and perhaps from inebriation; but, upon a demand from the presiding officer of this House, is not order instantly restored, and upon a command that a rude and impertinent individual be removed, and thereby the attention of an insulted public drawn upon him, is he not disarmed and rendered harmless; does not your officer remove him without difficulty? Experience is acknowledged to be the best instructor. The experience of thirty years has justly established the fact, that the power and right to remove and exclude from this House has furnished to it an ample and efficient protection against insult and disturbance during its sessions. I therefore hope, sir, we may not, by the fascinating and deceitful charms of power, be stimulated and emboldened to make a sacrilegious attack upon the pure and free principles of our admired political institutions.

Gentlemen have triumphantly said, that in conceding the right and power to remove, the contest is given up. It is a common saying, that a man in straightened circumstances will catch at shadows; and that a man in the pursuit of an object is blind and deaf to everything that is opposed to his wishes; and I cannot but believe that the arguments and pretensions of those on the other side of this question are a most conclusive proof of the verity of the maxims. The course of the argument is, that by conceding the power to remove from a particular place, it is a concession of the power to arrest in any place, and to bring into the place from whence you have

the power to remove; that by conceding the power to suppress disturbances in one place, it is a concession of the power to do it in every place; and that by conceding the power to remove from one place, because of a disturbance, it is a concession of a power to hear and determine whether disturbances have not been committed elsewhere; and if an individual is thus adjudged guilty, to fine and imprison at discretion. The fallacy of this course of argument is self-evident, and the deductions are apparently preposterous and inconclusive.

But gentlemen further contend that this right and power is not sufficient for the protection of this House, and therefore, from necessity, it must have a greater and further power: say they, your officer may, by superior force, be tumbled from your galleries; that you may be forced from that most honorable seat in a most disgraceful manner, and the members, one by one, led by the nose, and hurled into the street; your authority trampled down, and our physical powers insufficient to withstand or repel the insolent attack. It is then inquired, with much concern and vehemence, are we to submit and calmly abide the indignity? Will we not avenge the wrong and disgrace? Will not submission be such a course of conduct as must evidence a want of respect to ourselves, and a scandalous surrender of honor and duty? Apply the supposed case to the President of the United States, to the heads of Departments, or even to any honest, honorable yeoman in society, and then ask, what is to be done? I answer, as I have before attempted to show in argument, the appeal for redress must be to the law and the regular constituted authorities, as the ordinary remedy; that being found insufficient, to resort to the law of nature, and apply force against force, and the strength of parties must be the arbiter, as the extraordinary remedy. If necessity is to furnish the rule for this House, equally so will it give the power to the President and the several departments to punish for contempts and breach of privileges; for, so far as dignity or indignity are concerned, it will apply to the members of every co-ordinate department of the Government. And are gentlemen willing to extend to those the discretionary and unlimited power sought for themselves? They, in their turn, might be made to feel the baneful effects of such doctrines. But, sir, the supposed incidents from which they have deduced the necessity upon which they predicate the right to exercise the power, are improbable, not to be expected, and rest only on the extreme of conjecture, and are not, therefore, a proper basis upon which to found a fair argument, or from which to deduce useful, safe, and practicable principles. The supposition places the country in a state of insurrection, and the insurgents as possessing the physical force. The case put is not an ordinary but an extraordinary one, and must have an extraordinary remedy. I must confess there is an aptitude in the supposed case and the power sought to be exercised by this House, which may with aptness be termed the supposable and *extraordi-*



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nary powers of the House of Representatives; and the case and right, as respects this House, have no better foundation than illusory conjecture and supposition. But what is the antidote proposed for this supposed evil? Gentlemen say, all will be well if it is but admitted that the House has the power to punish for a contempt and breach of privilege. How is this wonder-working admission to accomplish so much?

The Speaker and members, wandering in the commons, are to issue a warrant and deliver it to the Sergeant-at-Arms, and thus armed he is to arrest the mob, reduce confusion to order, and reconduct the honorable Speaker and Representatives into the hall. Thus at one time your officer is supposed to be as powerless and inefficient as thin vapor, at another a being irresistible, and in his course bearing down the infuriated multitude without hazard or trouble. This House nor Congress itself cannot command the services nor control the actions of a man beyond the walls of its habitation, except in particular cases mentioned in the Constitution, only by laws enacted; and such commands are to be carried into effect by the other department of the Government.

Congress has exclusively legislative power, and may in its discretion enact laws forbidding dangerous and vicious practices; and to the extent that acts are made unlawful are citizens punishable for transgression; but Congress cannot, by legislation, give to itself cognizance of criminals or crimes, so as to be their triers. It is contended that this House as a body corporate have certain privileges, for the infraction of which the infractor is liable to punishment. We require that those privileges may be defined and made known by a law, and that the pains and penalties incurred by a breach of them should be fixed and established. To this it is objected, that it would be a labor of danger and difficulty, that it would require volumes of laws to do it; that the Senate might not assent to the passage of a law; that the President would not approve it: that the courts might not faithfully and willingly execute such a law, and that it would be submitting the extent, and the manner of securing our privileges to the control, judgment, and discretion of others, and therefore we should not be independent. To what extravagances, inconsistencies, and distrusts will not honorable men resort in argument to support a favorite opinion! The citizen must be left to learn the law by which he is to be bound, and by which he is to be punished, from intuitive perception or divination, and a system of law, so voluminous and intricate, as in itself to furnish an excuse to the legislature for the non-compilation and non-enactment, and yet insisted upon as being vitally important to the due and undisturbed performance of legislation. The President and Senate are not to be trusted in this exercise of their legitimate powers in forming laws, nor the courts in administering them, in reference to the undefined and undefinable privileges of the House of Representatives. The House of Representatives are to be the sole legislators, and the only expositors of this criminal code. I am con-

strained to believe that such a state of things, and the existence of and exercise of such powers is entirely repugnant to American political and juridical propriety.

It has been objected that Congress has not the power to legislate upon this subject. To which I answer by referring to the last clause of the eighth article of the first section of the Constitution, which reads thus: "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, vested by this Constitution in the Government of the United States, or in any department or office thereof." Can any one be so sceptical as to say Congress may not pass laws, making it penal to offer a member of this House a bribe, to assault or beat a member while attending at the seat of Government, or unlawfully to imprison him, or to interrupt this House while in session, or the members in going to or from the House? And will not all concur in saying that it is the duty of Congress so to legislate, if made necessary by the dissolute manners and morals of the people? And will not all agree that ample and full power is given by the Constitution to Congress, by legislative provisions, to protect itself from insult and interruption, and its members free, pure, and uncorrupted? And, also, will not such a course be in accordance with, and conformable to, the generally admitted principles of our Constitution, and more congenial to our accepted opinions of legal certainty and civil liberty? But we have been gravely told by the gentleman from Massachusetts, (Mr. HOLMES,) that it is beneath the dignity of the representatives of eight millions of people to apply to the petty courts for the administration of justice, or for the redress of wrongs. However such suggestions may awaken our pride and ambition, I cannot conceive that they will or can assist our judgment. Neither can I consent to believe that it is decorous or proper for the legislative department of the Government to cherish expressions or examples that may have an effect to weaken the confidence of the public in the other co-ordinate departments. The principle suggested, also, is grossly incorrect and fallacious, and can only find a lodgment in the mind of such as are bewildered in the chase after exclusive privileges and fanciful dignities, the welcome bantlings of aristocracies and monarchies. But, by the way of giving strength to the strong, we are reminded that the members of this House are the immediate representatives of the people, and as such are we to be insulted, and turned over to the courts of justice for redress? The distinction intimated by concealed implications is, that the judicial power is not connected with the people by a relation so strong as that of the legislative power. But, in the language of the Hon. Judge Wilson, it is high time that we should chastise our prejudices, and that we should look upon the different parts of the Government with a just and impartial eye. The executive and judicial powers are now drawn from the same source, are now animated by the same principles, and are now directed to the same ends with the

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legislative authority. They who execute, and they who administer the laws, are as much the servants, and therefore as much the friends of the people, as they who make them. The character, and interest, and glory of the two former are as intimately and as necessarily connected with the happiness and prosperity of the people, as the character, and interest, and glory of the latter are. Besides, the execution of the law, and the administration of justice under the law, bring it home to the fortunes, and farms, and houses, and business of the people. Ought the executive or the judicial magistrates, then, to be considered as foreigners? Ought they to be treated with a chilling indifference?

It is usually supposed that the representative is not greater than those he represents; but here it is contended that, beyond the powers we possess as mere legislators, we are in a degree ennobled, and are encircled by a system of jurisprudence as men, not applicable to the members of society generally, and that it would be undignified in us to submit our rights and wrongs to the ordinary rules and courts of justice. The adoption of such ideas and opinions are not required by necessity, nor authorized by propriety or legal fitness.

The gentleman from Pennsylvania (Mr. HORTON) has attempted to show by argument that this House must necessarily have and exercise the power of summarily punishing, or proceeding for contempts, to secure to the nation the services of the members, and to the members the freedom of speech in debate. He inquires, if a member is arrested during his attendance on the House, how shall he be discharged? Where shall he seek his remedy and protection, if not here? I answer, not here, but to the judicial department must the appeal be made; to that source to which every citizen must resort for redress and legal protection, unless, by some express exemption, an especial and extraordinary remedy has been established and provided. Exemptions from the operation of general laws are not, nor ought they to be, encouraged in any free government, and emphatically so in this country. They are dangerous, invidious, and perplexing. The Constitution has given a right; if that right is violated the same instrument has provided the remedy, and the manner and place where it is to be enforced; the second section of the third article, "The judicial power shall extend to all cases in law and equity arising under this Constitution," &c.

This Constitutional remedy, say gentlemen, would occasion great delay—the delay might produce enormous injury and great personal inconvenience; therefore, say they, we conceive it to be inexpedient to be bound by it, but deem it expedient and necessary to adopt another remedy more summary and efficient, and less inconvenient to ourselves. I must protest against the idea that this House are to be governed in giving a construction to the Constitution, or in the exercise of a power, by what we may consider to be expedient and convenient. This being wise, in this particular, above what is written, is danger-

ous and heteroclitical. If a member is arrested, the question arises, is the arrest legal or illegal? This is a strict question of law, and can only, constitutionally, be decided by the judicial power. The Constitution recognises the right to arrest a member under certain circumstances. Suppose a member be arrested on a charge of treason, or for any breach of the peace, by virtue of a warrant issued on an indictment, this House should send their warrant, and arrest the officer for the contempt and breach of privilege, the officer should plead, by way of an excuse, his warrant issued by competent authority, would not this present an issue either of law or facts (as the pleadings might be) to be tried? Properly and constitutionally, would this House be a court to decide the controversy?

Suppose a member to be arrested upon a complaint which was entirely without foundation. If the warrant was legally issued, would it not, in law, be a complete justification to the officer? And could this House inquire into the innocence or guilt of the member, and, upon the first being established, discharge him from the custody of the law; or, upon his guilt being proved, bind him in bonds to appear for further trial; or to punish him for the offence in a criminal point of view; or, for failure of giving acceptable bail, commit him for trial? If I am answered in the affirmative, it would be in effect giving to this House jurisdiction of the criminal acts of its members, to the exclusion of the established courts of criminal jurisdiction, and would also be an interruption of, and an innovation upon, the ordinary and known criminal jurisprudence of the country; and, I fear, in times of difficulty, might be a dangerous engine in the hands of the majority, as respects the minority and civil magistracy. The officer returns the process, "I have taken the defendant, but he has been discharged from custody by the order of the House of Representatives." The officer is proceeded against by the legal authority for neglect of duty. I do not hesitate to say, the gentleman would blush to plead such discharge as a legal excuse. And, sir, if it would be a legal excuse, it must be because this House is a court of criminal jurisdiction. Are gentlemen ready to make such an avowal?

Sir, it would be the duty of such officer to execute the process, and, when served, to hold the member in his custody, and return him according to the mandate of the warrant, unless otherwise directed by some legally constituted judicial authority. And in case your Sergeant, with his warrant, backed by every member of this House, were to interpose, with force, to rescue the prisoner at his peril, the civil officer must detain such member in his custody, and to that end he might command the power of the county, and such opposers would be liable to punishment, upon an indictment. Were this honorable House to issue its mandate, warrant, or other process, directed to the Supreme Court of the United States, or any other independent court in this country, directing them to stay all further proceedings against a

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member of this body, or to discharge him from the custody of the law for any cause whatsoever, or to arrest any officer of the said court, for the legal execution of any process to such officer directed, I trust but little respect would be given to such mandate or process. And if the officer of this House should pertinaciously insist upon executing such mandate or process, he would immediately be found within the four walls of a prison as an offender against the peace and dignity of the society, for interrupting the due administration of justice.\*

Again, say gentlemen, if we are bound down to the letter of the Constitution, and may assume no powers not there expressly given, what will you do if a member shall be questioned, and rudely questioned, and menaced with personal injury for his speech made in debate? I am bold to answer, that we can do nothing, merely as the House of Representatives, if it be done beyond the limits of our tenement. If the member is fearful of personal injury, the law has furnished him the preventive remedy of binding over the aggressor to keep the peace. And all that is secured to a member by these words in the Constitution, "and for any speech or debate in either House, they shall not be questioned in any other place," is, that if an action shall be commenced for words used in debate, he may plead that matter, and it shall be a full defence, be the words ever so slanderous, false, or malicious. But, we are told, if this House, as a body corporate, have no remedy, the boasted privilege is an idle mockery. No rights or privileges are esteemed valuable, by these men of power, or of any importance, if held only by the ordinary legal tenure. Nothing will satisfy them short of privileges, the

extent and manner of using them, to be dictated by their own unlimited discretion. The tenure by which the citizen holds his life, liberty, reputation, and property, is too uncertain, unsafe, and imbecile. We are, by arguments and fearful suggestions, urged to believe that our privileges are rights so essential and so delicate, that if they are not sustained and cherished by something more potent and more congenial than the ordinary established laws of the country, they will languish and die, and with them, in one promiscuous ruin, will be lost the nation's last best hope.

If the doctrine contended for be correct, that the House of Representatives have the power, at their discretion, to imprison a citizen for what they may suppose to be a rude questioning of a member, for what he has said in debate, permit me to ask where would be the liberty of speech to the citizen, where would be the liberty of the press, and where would be the liberty of investigation? It must be answered, in the close custody and keeping of this House. Is such the much-loved and boasted theory of our free institutions? I rejoice that it is otherwise, and that its features are more inviting and its form more substantial. The citizen will question, and it is his duty to question, what we do here, what we say here, and how we, in all respects, employ our time and talents here; he will question our judgments, our honesty, our integrity, and our capacities in every particular; and from this questioning, before our term of service may have expired, many of us may be compelled, much against our will, at an after period, to return to the walks of private life; and, may I not add, that to the exercise of this sovereign right, we all look with holy zeal, and with a steadfast confidence, as the anchor of our political liberty and happiness? But if the citizen, in thus questioning the conduct and character of a Representative, does maliciously and falsely defame his reputation, the Representative, as a man, has a legal remedy, by an action at law, to be prosecuted in the courts of judicature, not in this House. Such are what I conceive to be the equal rights of the citizen, whether in or out of office, in our Government of laws, and such is what I believe to be civil and legal liberty.

\* In the reign of Queen Anne, in 1704, several free-men, of the borough of Aylesbury, had been refused the liberty of voting at an election for a member of Parliament, though they proved their qualifications as such; the law in this case imposes a fine of £100 for every such offence. On this principle they applied to Lord Chief Justice Holt, who desired the officer to be arrested. The House of Commons, alarmed at this step, made an order of their House, to make it penal for either judge, counsel, or attorney, to assist at the trial. However, the Lord Chief Justice, and several lawyers, were hardy enough to oppose this order, and brought it on in the King's bench. The House, highly irritated at the contempt of their order, sent a sergeant-at-arms for the judge to appear before them; but that resolute defender of the laws, bade him, with a voice of authority, begone; on which they sent a second message, by their Speaker, attended by as many members as espoused the measure. After the Speaker had delivered his message, his lordship replied to him in these remarkable words: "Go back to your Chair, Mr. Speaker, within these five minutes, or you may depend on it I will send you to Newgate; you speak of your authority, but I tell you I sit here as an interpreter of the laws, and a distributor of justice, and, were the whole House of Commons in your belly, I will not stir one foot." The Speaker was prudent enough to return, and the House were equally prudent to let the affair drop.

This course of argument, we are informed by several gentlemen, will be making the legislative department subordinate to, and dependent upon, the judiciary. In this view of our arguments, as connected with the controversy and the structure of our Government, they are in a radical error; and from this inaccuracy on their part, has come a multitude of untenable positions and arguments. Their premises being unsound, their deductions of course must be incorrect. Their first principle seems to be, that the House of Representatives are an independent body, composing an entire whole, when, in fact, it is but a part of a general system, consisting of limited, independent, and dependent parts, in all, making a perfect whole. I have heretofore said that our Government consisted of three great departments—the legislative, judicial, and executive; and that

they are, and properly ought to be, in the exercise of their allotted powers, independent as well as distinct. I have also attempted to show in what consisted legislative, judicial, and executive powers; these enumerated powers, when brought into action, making an entire whole, each being limited, as applied to individuals and to society, necessarily must act as a check and control upon each other. This independence, within defined limits, and mutual dependence as one political body, seems not to be comprehended, or, if understood, not admitted in argument or in practice. If this House proceed to make the law, accuse, and condemn for the breach of it, and to execute such judgment by imprisoning the offender, such a course would be the combining and exercising the powers of the three departments by the one, which is the consummation of tyranny.

And here I beg the indulgence of the House, while I read a few sentences from the honorable Judge Wilson's works. He was a member of the Convention that formed this Constitution—whose sentiments and feelings were entirely American—a man profound in judgment and erudition, and almost unequalled as respects political, constitutional, and common-law learning:

"Though the foregoing great powers—Legislative, Executive, and Judicial—are all necessary to a good Government; yet it is of the last importance that each of them be preserved distinct, and unmingled in the execution of its separate powers, with either, or with both of the others. Here every degree of confusion in the plan will produce a corresponding degree of interference, opposition, combination, or perplexity in the execution. Let us suppose the Legislative and the Executive powers were united in the same person—can liberty or security be expected? No. Let us suppose all the three powers of Government to be united in the same man or body of men; miserable, indeed, would this case be. Liberty and security in Government depend not on the limits which the rulers may please to assign to the exercise of their own powers, but on the boundaries within which their powers are circumscribed by the Constitution. The independence of each power consists in this, that its proceedings, and the motives, views, and principles which produce those proceedings, should be free from the remotest influence, direct or indirect, of either of the other two powers. But further than this the independency of each power ought not to extend. Its proceedings should be formed without restraint, but when they are once formed they should be subject to control. We are now led to discover that, between these three great powers of Government, there ought to be a mutual dependency as well as a mutual independency. Let us now describe their dependency. It consists in this, that the proceedings of each, when they come forth into action, and are ready to affect the whole, are liable to be examined and controlled by one or both of the others. The salutary consequence of the mutual dependency of the great powers of Government is, that if one part should, at any time, usurp more power than the Constitution gives, or make an improper use of its Constitutional power, one or both of the other parts may correct the abuse, or may check the usurpation. The total disjunction of these powers would, in the end, produce the very union against which it seems to pro-

vide. The Legislature would soon become tyrannical, and would assume to itself the rights of the Executive and Judicial powers. The important conclusion to be drawn from the premises which we have established, is, that in Government the perfection of the whole depends on the balance of the parts; and the balance of the parts consists in the independent exercise of their separate powers; and when their powers are separately exercised, then, in their mutual influence and operation on one another, each part acts and is acted upon, supports and is supported, regulates and is regulated by the rest."

Again, the same writer, in speaking of the checks established by our charter, says:

"The effects of this salutary regulation, necessarily resulting from the Constitution, are great and illustrious. In consequence of it the bounds of legislative power—a power the most apt to overleap its bounds—are not only distinctly marked in the system itself, but effectual and permanent provision is made, that every transgression of those bounds shall be adjudged and rendered vain and fruitless. What a noble guard against legislative despotism!"

"This regulation is far from throwing any disparagement upon the legislative authority of the United States. It does not confer upon the Judicial department a power superior, in its general nature, to that of the Legislature, but it confers upon it, in particular instances, and for particular purposes, the declaring and enforcing the superior power of the Constitution—the supreme law of the land."

The powers that this Government possess are derived by delegation from the people; and in the establishment of the judicial department for the administering of justice under the laws, they have reserved expressly to themselves, to be by them exercised personally, an important and inestimable portion of the power proper and necessary to be exercised in administering criminal justice. "The trial of all crimes, except in case of impeachment, shall be by jury;" art. 3, sec. 2. The people of the United States were not contented merely with this general reservation of this right and power, but have, in the fifth and sixth amendments to the Constitution, enlarged it, and in a degree specifically declared the manner in which the general reserved power shall be applied and exercised by the Government. "No person shall be held to answer for a capital, or other infamous crime, unless on presentment or indictment of a grand jury, &c., nor be deprived of life, liberty, or property, without due process of law," &c. And "in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury." Those provisions were not embodied in the Constitution as mere idle speculations, and there to remain a dead letter, but as a substantial, safe, and active part of the system. The sacrifices of civil rights, of personal liberty, and even of life, had been so flagrant and tyrannical in the Government of every country known to us in history, under the pretence of administering criminal justice, that it was believed to be fundamentally necessary to restrain and limit the several departments of our Government in this particular. The words used in the Constitution—"the trial of all crimes;" "no person

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shall be held to answer for a capital or other infamous crime;" and, "in all criminal prosecutions," are as broad and comprehensive in the meaning as could have been adopted from our language, to secure the right of a jury trial in criminal cases. I contend this Constitutional right cannot be taken from the citizen, even by the supremacy of legislative power. Can we do that indirectly, or by implication, which we cannot by direct means? If it may be, can be, or shall be done, this boasted instrument becomes, in the hands of the designing, artful, and ambitious politician, the yawning sepulchre of our civil rights.

Why is it that this House have, at this time, stayed legislation? Why have we accused a citizen? And why have we, in the form of a criminal process, snatched from a man his liberty? Certainly not because he has done a lawful act, or an act indifferent, but, on the contrary, because this House allege that he has committed, or attempted to commit, an unlawful act, for which he is subject to be imprisoned—to be punished.

In legal language, every act that is declared to be unlawful by the laws of society, and for which the actor is subject to punishment of any kind whatever, is denominated a crime. Every legal inquiry into the guilt or innocence of an individual, is a criminal proceeding; and the inquiry upon which the guilt or innocence of the accused is decided, is the trial. Have we not accused, have we not arrested, and are we not now anxious to hear and decide upon the innocence or guilt of a citizen, and finally, from which there is nor can be no appeal, and without the intervention of a grand or traverse jury, and, if thus convicted, to punish him by imprisonment, or in some other form?

But we are told in argument by our opponents, "that every idea of punishment for an offence or crime is kept out of view;" it is well, for if it was permitted to be viewed and applied properly to this proceeding and controversy, the result must inevitably be different from the one they seek. By excluding that which is proper and pertinent, and admitting what is improper, then in argument any conclusion may be made except the correct one. Again, we are told, in the same spirit of disguise, that they "disclaim" the commitment, by this House, for a contempt, "to be in the nature of a punishment; it is entirely a power of protection."

The law recognises two kinds of protection; self and legal protection. The former, as I have attempted to show, is the right permitted to moral or natural persons, by physical means, to prevent an immediate threatened injury, or to stay an actual commenced and continuing forcible aggression. The latter, that which is provided in the criminal code of laws, to be rendered effective through the instrumentality of the judicial and executive powers of the Government. From the course of the arguments, I apprehend it is under the head of self-protection, this power is claimed; that it cannot be brought within this clause, I

trust I have before satisfactorily proved, and will only add that this is the first time I ever heard it seriously and boldly contended, that, under the pretence of self-protection, a person could gravely sit down, make out his warrant, and have arrested his distant wrong-doer, and thereby have the aggressor brought before the injured party for trial—in a word, that he could assume to himself and exercise all the power and forms of a court of criminal jurisdiction; and in name disclaim, yet in effect accomplish the resulting consequences, as applied to others, and still stand justified—such is a system of administering justice and a kind of doctrine peculiar in their nature, and dangerous in their tendency.

Much reliance has been placed upon the acknowledged power exercised by the courts of justice, in the punishing of contempts. In the English criminal jurisprudence, this doctrine is much more extensive than is recognised in practice by our criminal law; it extends to the mal-administration of certain officers, to contempts against the king's prerogative, against the king's person, and against the king's title, these are offences not tried by the king in person, but by the judicial power, and are thus referred to a disinterested tribunal, to secure equal justice and safety to the subject. This monarch seems not to be so excessively wedded to his privileges, as the representatives of a free and independent people, or not so jealous and suspicious of the judicial power. But the criminal law, as applied to the offence of contempt, in this country, is derived from the law punishing contempts against the king's palaces or courts of justice. In the English Government the king is supposed to be the fountain of all power and justice. The courts for the administration of justice are supposed to be established by him for the purpose of doing equal justice. Every wilful and corrupt, or attempted interruption of the pure current of justice, is an offence against the public peace, and a contempt to the king as the fountain—and is denominated in law as contempt to the king's courts. Not as gentlemen suppose, punishable as being an indignity to the men who are the judges, and a breach of their privileges; but, as a wrong and injury done to the public.

In this country the people are the source from which our courts derive all their powers, and as such are the fountain or repository of justice—all wilful interruptions, to the due administration of justice, are in a common law sense, a breach of the peace, and against the dignity of the people, and the legally constituted authority to hear is and determine according to law every offence of the judiciary. In the hearing and deciding upon a contempt, the judges of the court are in no greater manner interested, concerned, or known, than in the trial of any or every other crime against society. Thus it is to be seen, that contempts, as embraced by the law, are crimes, and are properly cognizable, only within the judicial department of the Government. The courts are solely the constituted agents of both parties, mutually appointed in the social compact to decide.

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In answer to our objections, to unlimited and discretionary power, we are told the courts have it—admitted, does it establish the fact, that this House has and ought to possess it? I admit that the undefined, and in a degree unlimited powers possessed and exercised by the courts in this respect, are counter to my general idea of propriety, and that fixed certainty which ought to characterize criminal law. But, the existence of it in the judiciary is far less to be dreaded than in this House, as the abuse of it may at any time be corrected by the legislative power, in limiting and defining it, or by divesting the courts of the power entirely. But, where is to be found the power to constrain, control, or limit the abuse of it here?

The Constitutional limitations and distribution of powers, and the mutual checks and balances are therein wisely established, and greatly tend to the security of liberty and national prosperity and happiness. Let us not rely too much on the honesty of intention, the wisdom and moderation with which we may assume and exercise powers, that those who may hereafter fill our places, being less wise, less honest, and more ambitious, may use to the most deadly consequences, and to subvert the most hateful purposes.

A word as to precedents—a just and prudent adherence and obedience to them. But, a blind or an unexamining confidence and obedience to them I must controvert.

In determining the extent of powers and jurisdiction granted to the departments of Government, precedents should be scrutinized with great care and caution; and whenever they tend to enlarge the powers in doubtful cases, to be obeyed with great circumspection, and not at all, if, on examination, they are found to be unreasonable, unconstitutional, or dangerous. It is the nature of man, and especially of those in power, to extend, rather than curtail, their powers; and certain safety and duty are to be found within the clear and undoubted limits of the grant. Further to illustrate my views upon this point, I will give the following quotations: "Why should a point be received as law, merely because one man, or a succession of men, have said it is law, any more than another point should be received as reason, merely because one philosopher, or a set of philosophers, have said it is reason? In law, as in philosophy, should not every one think and judge for himself? *Stare decisis* may prevent the trouble of investigation; but it will prevent also the pleasure and the advantage of improvement. Implicit deference to authority, as I have declared on more occasions than one, I consider as the bane of science; and I honor the benefactors of mankind, who have broken the yoke of that intellectual tyranny, by which, in many ages, and in many countries, men have been deprived of the inherent and inalienable right of judging for themselves. But how natural it is, for one extreme to vibrate with violence to its opposite one! Though authority be not permitted to tyrannize as a mistress, may she not be consulted as a skilful guide? May not respect

be paid, though a blind assent be refused to her dictates?"

Judge Johnston, in his opinion in the case of Bollman and Swartwout, says:—"But I deny that a court is precluded from the right, or exempted from the necessity of examining into the correctness of its own decisions, or those of any other tribunal. Strange would be the doctrine, that an inadvertency once committed by a court shall ever after impose on it the necessity of persisting in its error. A case that cannot be tested by principle is not law, and in a thousand instances have such cases been declared so by courts of justice." If we have been able to show, that the power, sought to be exercised by this House is unconstitutional, or even doubtful, unreasonable, impolitic, or dangerous, I am confident, that the impulse of the moment, the necessity, nor the weight of precedent, will not induce this House to adopt the principle, or further sanction the recorded example.

If I have erred in the adoption of the principles and constructions that I have advocated, it is erring on the side from whence danger is not to be apprehended. History, in no page within my recollection, proves, that, from the non-exercise of doubtful powers, by those who were intrusted with authority, the liberties of that country have been lost, or that the liberty, life, property, or reputation of any individual has thereby been sacrificed. But, on the other hand, does not the continued volume of history, in almost every page, give us incontestable evidence, that one-half of the miseries the human family have had to undergo and sustain, have had their origin from the exercise of assumed powers by those in authority? And have not those tyrants and destroyers of human happiness, and of mankind, justified themselves under the law of necessity, the law of self-preservation, and the law of discretion, which is known in substance, limit, or extent, only as it is put into practice, as avarice, ambition, or revenge, may have dictated?

Messrs. ROSS, RHEA, SPENCER, and BURWELL, addressed the Chair on the main question, and Mr. HOPKINSON and Mr. STORRS on incidental points.

The sitting was prolonged to a late hour, the question being loudly called for in the interval between each member's speech; but an adjournment finally took place, without having come to a decision, on the motion of Mr. BURWELL, who, with many others, wished to have the present shape of the proposition so varied as to enable the House, in their voting on it, to express a definite opinion.

THURSDAY, January 15.

On motion of Mr. SERGEANT, the report of the committee on the memorial of Mary Graeff was reconsidered, and referred to a Committee of the Whole.

On motion of Mr. BARBOUR, the Committee on Post Offices and Post Roads were instructed to inquire into the expediency of exempting from



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postage all letters and packets relative to the militia, to and from the Adjutant General of the respective States and Territories.

#### CASE OF COLONEL ANDERSON.

The House resumed the consideration of the case of Colonel Anderson. The following resolutions moved by Mr. RHEA, by way of amendment, being yet under consideration:

*"Resolved, That this House possesseth competent power to punish for contempts of its authority.*

*'Therefore, Resolved, That the Sergeant at Arms be directed to conduct John Anderson to the bar of the House.'*

Mr. RHEA, with a view to put his amendment in a shape more acceptable to gentlemen, modified his motion for amendment, so as to make the first resolution read as follows:

*"Resolved, That this House possess adequate power to punish for contempts against it.*

Mr. PITKIN assigned the reasons why he wished to avoid placing on the Journal anything affirming the authority of the House on the one hand, or denying it on the other: and, to escape the alternative presented to the House by the proposed resolution and amendment, he moved to postpone indefinitely the consideration of the main question and the amendment proposed thereto.

After some questions to the Chair, and explanations therefrom, respecting the effect of such a postponement, that effect was pronounced from the Chair to be, to place the question in the state in which it was when the motion of Mr. SPENCER was first made; and, if this course was pursued, that the House would be at full liberty to take any course in respect to John Anderson, which, in its opinion, was within the scope of its Constitutional powers.

Mr. RICH, of Vermont, said he hoped that the motion of the gentleman from Connecticut would not prevail; for, after the very able and long discussion which this subject had undergone, it was due to this House and the nation that the sense of the House should be taken on some proposition distinct from the case of John Anderson, in order (if he might be allowed the expression) that the law may be settled in relation to the principle, so far as it could be done, by a solemn decision of the House. With a view to that object, said he, it was my intention, could I have obtained the floor, to have moved an amendment to the amendment offered yesterday by the gentleman from Tennessee. I therefore hope the motion for a postponement will be rejected, that I may still have an opportunity to submit an amendment, having for its object a disavowal of the right to try and punish for offences, and a declaration that the House will abstain from no measures which may be necessary to preserve its deliberations free from interruption, and its members and officers from insult or injury. In order, then, that the House may be informed of the amendment I propose to offer, should an opportunity be afforded me, I will read in my place the one I had prepared.

[Here Mr. R. read the proposed amendment, and concluded by saying:]—

I hope, sir, the subject will not be passed by without a distinct decision of the House upon the principle, aside from all considerations of the guilt or innocence of John Anderson.

[Subsequently, during the pending of the resolution for bringing John Anderson to the bar of the House, Mr. R. remarked:]—

He was desirous of obtaining a decision of the House, which should narrow the grounds of the inquiry when John Anderson shall have been brought in, and for that purpose he would now propose, as an amendment to the resolution, that which he had a short time since read to the House.

[The amendment having been announced from the Chair, Mr. R. proceeded:]—

I am, sir, among the number who do not believe that this House has a right to sit in judgment, or inflict penalties upon any one, except its own members; but admitting our right to proceed to the trial and punishment of John Anderson was free from all doubt, it is, in my opinion, inexpedient, because more is to be lost than gained by the procedure. For such is the character of the transaction that the bare knowledge of it is sufficient to draw down upon the head of the perpetrator the execrations of the whole community; consequently, no act of this House can add materially to his sufferings, while, by persevering in the trial, much of our time will be consumed, and much of the people's money expended.

Again, I hold it to be inexpedient, because a large assembly is, of all tribunals, the most improper for the trial of offences, especially when it is the injured party; and, lastly, it is inexpedient to furnish, by our example, a precedent for proceedings in a case affecting the rights of a citizen, in the absence of known rules, except in one of the most urgent necessity, which I am sure this is not. For deplorable indeed must be the state of society, and strangely degenerated must be the Representatives of this nation, before any serious injury can be apprehended from attempts upon the integrity of its members. My life for it, sir, until the people of this nation shall have lost their affection for this Government, attempts like the one under consideration, will but very seldom be repeated; and surely this body can never suffer a material injury from an unsuccessful attempt to bribe one of its members. Until it shall be believed, then, that an attempt can be made with success, I hope we shall leave the assailants to seek repose, under the frowns and indignation of an enlightened and virtuous people.

I will never admit, said Mr. R., that it is possible for a man, who has the honor of representing, in this House, thirty-five thousand of the only free people of which the world can boast, so far to forget the dignity of his station as to be capable of receiving a bribe from any one. Therefore, the only consequences which attempts of this kind can draw after them are the irritation of feeling they may produce; consequences not of sufficient magnitude to justify the waste of

time which must result from an investigation before the House. I shall, therefore, vote against proceeding with the trial; but should it be the wish of the accused to make an apology to the House, I would permit him to do so, and proceed again to the business of legislation. Was it not, however, for the proceedings which have been had in the case, I would permit no apology to be made within these walls, but leave him to apologize to the citizens of his country, against whom, rather than against this House, the offence has been committed. Should the amendment be adopted, the only inquiry that will remain for the House to make is, whether there be danger of further interruption from John Anderson?—the only proper inquiry in the case.

After explanatory remarks from various members, among whom were Messrs. RHEA, TALLMADGE, BALLARD SMITH, and CULBRETH—

The question was taken on postponement, and decided in the affirmative—for indefinite postponement 117, against it 42, as follows:

**YEAS**—Messrs. Abbott, Adams, Allen of Vermont, Anderson of Pennsylvania, Austin, Baldwin, Bayley, Bennett, Bloomfield, Blount, Boden, Boss, Bryan, Burwell, Butler, Campbell, Clagett, Claiborne, Colston, Cook, Crafts, Crawford, Cushman, Darlington, Desha, Drake, Ellicott, Floyd, Folger, Forsyth, Gage, Hall of Delaware, Hall of North Carolina, Harrison, Herbert, Heister, Holmes of Massachusetts, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Huntington, Ingham, Jones, Little, Lowndes, McLane, W. Maclay, W. P. Maclay, McCoy, Marchand, Marr, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Miller, Moore, Morton, Moseley, Mumford, Murray, Jeremiah Nelson, H. Nelson, Nesbitt, New, Ogden, Orr, Owen, Palmer, Parris, Parrott, Patterson, Pawling, Peter, Pitkin, Pleasants, Reed, Rhea, Richards, Ross, Ruggles, Sampson, Savage, Schuyler, Scudder, Sergeant, Settle, Seybert, Sherwood, S. Smith, Bal. Smith, Alexander Smyth, J. S. Smith, Storrs, Strong, Strother, Stuart, Tallmadge, Taylor, Terrill, Tompkins, Townsend, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Upham, Walker of North Carolina, Wallace, Whitman, Wendover, Westerlo, Whiteside, Williams of Connecticut, Williams of North Carolina, and Wilson of Pennsylvania.

**NAYS**—Messrs. Allen of Massachusetts, Anderson of Kentucky, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Beecher, Bellinger, Cruger, Culbreth, Edwards, Ervin of South Carolina, Forney, Fuller, Garnett, Hale, Herkimer, Herrick, Hitchcock, Hogg, Kinsey, Kirtland, Lawyer, Linn, Livermore, Merrill, T. M. Nelson, Poindexter, Porter, Quarles, Rich, Robertson of Kentucky, Robertson of Louisiana, Sawyer, Shaw, Silsbee, Speed, Spencer, Tarr, Walker of Kentucky, and Williams of New York.

The propositions before the House were indefinitely postponed.

Whereupon, Mr. TALLMADGE offered the following resolution for consideration:

*“Resolved, That John Anderson be forthwith brought to the bar of this House.”*

Mr. RICH proposed to amend the resolution by adding thereto the following:

*“And that he have an opportunity of offering to the*

*House any explanation of his alleged offence which he may think proper.”*

This motion Mr. RICH supported by observations regarding the general question, in which he opposed the expediency of proceeding further than he had suggested in the present case.

After a few observations from Mr. SERGEANT, however, Mr. RICH withdrew his proposition.

Mr. RICH subsequently moved to insert an amendment, denying the power of the House to judge or punish any individuals, its own members excepted; which motion was negatived by a large majority.

Mr. CULBRETH then moved to strike out the whole of Mr. TALLMADGE's resolution, and to substitute, by way of amendment, the following:

*“Whereas John Anderson is in custody for an offence which this House does not possess the Constitutional power to try, or right to punish: Therefore,*

*“Resolved, That the said John Anderson be discharged from the custody of the Sergeant at Arms.”*

And the question was taken on the amendment thus proposed, and decided in the negative—yeas 47, nays 119, as follows:

**YEAS**—Messrs. Allen of Massachusetts, Anderson of Kentucky, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Beecher, Bellinger, Cruger, Culbreth, Edwards, Ervin of South Carolina, Forney, Fuller, Garnett, Hale, Hall of North Carolina, Herkimer, Herrick, Hitchcock, Hogg, Johnson of Kentucky, Kinsey, Kirtland, Lawyer, Linn, Livermore, Merrill, T. M. Nelson, Poindexter, Porter, Quarles, Rich, Robertson of Kentucky, Robertson of Louisiana, Ross, Sawyer, Shaw, Silsbee, Bal. Smith, Speed, Spencer, Tarr, Trimble, Tucker of South Carolina, Walker of Kentucky, and Williams of New York.

**NAYS**—Messrs. Abbott, Adams, Allen of Vermont, Anderson of Pennsylvania, Austin, Baldwin, Bateman, Bayley, Bennett, Bloomfield, Blount, Boden, Boss, Bryan, Burwell, Butler, Campbell, Clagett, Claiborne, Cobb, Colston, Cook, Crafts, Crawford, Cushman, Darlington, Desha, Drake, Ellicott, Floyd, Folger, Forsyth, Gage, Hall of Delaware, Harrison, Herbert, Heister, Holmes of Massachusetts, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Huntington, Ingham, Irving of New York, Jones, Little, Lowndes, McLane, W. Maclay, W. P. Maclay, McCoy, Marchand, Marr, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Miller, Moore, Morton, Moseley, Mumford, Murray, Jeremiah Nelson, H. Nelson, Nesbitt, New, Ogden, Orr, Owen, Palmer, Parris, Parrott, Patterson, Pawling, Peter, Pindall, Pitkin, Pleasants, Reed, Rhea, Richards, Ruggles, Sampson, Savage, Schuyler, Scudder, Sergeant, Settle, Seybert, Sherwood, Slocumb, S. Smith, Alexander Smyth, J. S. Smith, Southard, Storrs, Strong, Strother, Stuart, Tallmadge, Taylor, Terrill, Terry, Tompkins, Townsend, Tucker of Virginia, Tyler, Upham, Walker of North Carolina, Wallace, Wendover, Westerlo, Whiteside, Whitman, Williams of Connecticut, Williams of North Carolina, and Wilson of Pennsylvania.

So the House refused to agree to the amendment proposed by Mr. CULBRETH.

The question was then taken on the motion that “John Anderson be forthwith brought to the bar of this House,” and decided in the affirmative, by yeas and nays—118 to 45, as follows:

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YEAS—Messrs. Adams, Allen of Vermont, Anderson of Pennsylvania, Austin, Baldwin, Bateman, Bayley, Bennett, Blount, Boden, Boss, Bryan, Burwell, Butler, Campbell, Clagett, Claiborne, Cobb, Colston, Cook, Crafts, Crawford, Cushman, Darlington, Desha, Drake, Ellcott, Floyd, Folger, Forsyth, Gage, Hall of Delaware, Harrison, Herbert, Heister, Holmes of Massachusetts, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Huntington, Ingham, Irving of New York, Jones, Linn, Little, Lowndes, McLane, W. Maclay, W. P. Maclay, McCoy, Marchand, Marr, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Miller, Moore, Morton, Mosley, Mumford, Murray, Jeremiah Nelson, H. Nelson, Nesbitt, New, Ogden, Orr, Owen, Palmer, Parris, Parrott, Patterson, Pawling, Peter, Pindall, Pitkin, Pleasants, Reed, Rhea, Richards, Ruggles Sampson, Savage, Schuyler, Scudder, Sergeant, Settle, Seybert, Sherwood, Slocumb, S. Smith, Alexander Smyth, J. S. Smith, Spangler, Storrs, Strong, Strother, Stuart, Tallmadge, Taylor, Terrill, Terry, Tompkins, Townsend, Tucker of Virginia, Tyler, Upham, Walker of North Carolina, Wallace, Wendover, Westerlo, Whiteside, Whitman, Williams of Connecticut, Williams of North Carolina, and Wilson of Pennsylvania.

NAYS—Messrs. Allen of Massachusetts, Anderson of Kentucky, Ball, Barbour of Virginia, Barber of Ohio, Dussett, Beecher, Bollinger, Cruger, Culbreth, Edwards, Ervin of South Carolina, Forney, Fuller, Garnett, Hale, Hall of North Carolina, Herkimer, Herrick, Hitchcock, Hogg, Johnson of Kentucky, Kinsey, Kirtland, Lawyer, Merrill, T. M. Nelson, Poindexter, Porter, Quarles, Rich, Robertson of Kentucky, Ross, Sawyer, Shaw, Silsbee, Bal. Smith, Southard, Speed, Spencer, Tarr, Trimble, Tucker of South Carolina, Walker of Kentucky, and Williams of New York.

Whereupon the Sergeant-at-Arms brought the prisoner to the bar, and the SPEAKER propounded to him the following interrogatories, to which he made the replies thereto:

1. Do you acknowledge yourself to be John Anderson. *Answer.* Yes.
2. Did you write and deliver to Lewis Williams, a member of this House, the letter of which a copy has been furnished to you by the Clerk? *Ans.* I did.
3. From what part of the city did you write the letter? *Ans.* I wrote it at Mr. Bestor's, where I board.
4. What is the amount of your own claims, which you are attempting to liquidate? *Ans.* About \$9,000.
5. What is the amount of others which you are soliciting? *Ans.* About \$21,000.
6. Have you any interest in the latter? *Ans.* None of a pecuniary kind, but am influenced in their pursuit by motives of charity.
7. Had you any authority from the persons you represent to make the offer contained in your letter? *Ans.* I have a general power-of-attorney to do for them as I would do for myself, but had no instructions to make that or any other offer.
8. Are you acquainted with any persons now in the city soliciting the claims of others? If so, name them. *Ans.* I am. There is a Mr. Pomeroy, who is soliciting his own claim, and Col. Watson, who is a general agent.
9. Have you made any other offer to any person? *Ans.* No.
10. Did you consult or advise with any person before you wrote and delivered the letter. *Ans.* I did not.

11. Who is the Mr. Halbard you mention in the letter? *Ans.* He is a gentleman I became partially acquainted with during the troubles at the River Raisin. I have not seen him since that time till I arrived in this city at the commencement of the session of Congress, and did not recognise him until he made himself known to me.

12. Has he any claims to solicit? *Ans.* None to my knowledge.

13. Have you any witnesses to examine, or defence to make, in justification or explanation of your conduct? If you have, the House is now ready to hear you.

The prisoner at the bar then called upon his witnesses, viz: Gen. Harrison, Col. Johnson, members of the House; Mr. R. J. Meigs, Postmaster General; Capt. Gray, Mr. Cyrus Halbard, Capt. Larrabee, Col. Joseph Watson, Mr. John H. Piatt, Capt. S. D. Richardson, Mr. Pomeroy, Lieut. Conway; who, all being previously sworn, delivered in their testimony.

The testimony was uniform, as far as the knowledge of the witnesses extended, in giving the accused a high character for probity, correct deportment, and patriotic conduct. It is too diffuse for publication entire. That of Col. R. M. Johnson is selected as a specimen of the general tenor of the evidence.

Mr. JOHNSON, having been called on by the prisoner to give to the House any information in his possession touching his character and conduct, testified to this effect: That his knowledge of the character of Col. John Anderson was not derived so much from personal intercourse as from the information of others; but, so far as his personal information extended, was corroborated by it. When Mr. J. was on the Northwestern frontier, Col. Anderson was a fugitive from Detroit, on the River Raisin, as Mr. J. had understood; and, being well acquainted with the frontier of that part of the United States, attached himself to the mounted regiment. How long he acted in that capacity Mr. J. did not recollect. As far, said Mr. J., as his conduct came within my own knowledge, I considered him a very gallant and a very brave man. In relation to the information he had from other quarters, there was a general consent of opinion that during the war Colonel Anderson had been considered not only a gallant and patriotic man, but a man of integrity, who had made uncommon sacrifices of nearly all his property from his devotion to the cause of the country. Mr. J. said he did also understand from several sources, that Col. Anderson, at the risk of his own life, did, at the River Raisin, rescue individuals from the hands of the savages. Mr. J. had further understood, he said, that Col. Anderson had refused the command of a regiment, offered to him by the British commander, when the enemy had possession of that country; and Col. Elliott, on being pressed to repeat the offer, said, that he knew the character of Col. Anderson fully, and that he knew he would as soon submit to have his head chopped off as to accept of it. Of John Anderson, said Mr. J., in relation to his conduct to me at the last session and at this

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I can say, without prejudice to the merits of others, I have never known an individual, whose losses were so great, and who knew I was disposed to advocate his claims, to take up so little of my time, and to be as modest in urging his claims. All these circumstances together had given to Mr. J. a high idea of the integrity, of the gallantry, and of the patriotism of Col. Anderson.

Other facts than those above mentioned were established by ample testimony, descriptive of the sufferings and steadfastness of John Anderson in the cause of the country during the war, &c.

In the course of the examinations of witnesses in the sitting of this day, in the case of Colonel Anderson, the following incidents arose:

*Colonel Joseph Watson*, one of the witnesses, being called a second time by the SPEAKER, was questioned and answered as follows:

*Question.* I thought I understood you to say that you had some claims on the Government yourself?

*Answer.* No, sir, I am agent for the settlement of claims, for which purpose I have opened an agency in this city, where I receive claims from every part of the country.

*Q.* Has it been customary, do you know, in any cases whatever, that any of the officers of the Government, in settling claims, have received from the claimants any compensation for extra services?

*A.* I presume the question is expected to be answered from personal knowledge: I have no personal knowledge of any such compensation having been received.

*Q.* Have you received any information of such practices, and, if you have, from whom?

*A.* I have heard such things intimated.

*Q.* By whom, and as to whom?

*A.* I have heard it intimated that clerks in some of the public offices were in the habit of transacting business as agents, and of receiving a commission for so doing.

*Q.* Specify, if you can, who gave you the information, and what clerks were named.

*A.* Information of that sort was received by me in a letter from a person of the name of Samuel How, who resides near Presque Isle, who said that he had engaged to pay a particular clerk five dollars for obtaining a land warrant for him.

*Q.* Do you recollect the name of the clerk?

*A.* Not accurately enough to repeat; but the letter is at the disposal of the House, if it chooses to call for it. I have an impression as to the name, but not so clear and distinct as to give it in evidence.

*By the Speaker.*—Bring the letter with you to the House to-morrow.

The witness then retired, but was again called and interrogated:

*The Speaker.* Is that single instance you have referred to the only one you have heard of?

*Witness.* I would state to the House that I am very willing to afford it all the information in my power to afford, which it may require. But I cannot but state, that I feel a delicacy in mentioning the names of persons who have been reported to act as agents. Being myself an agent, I might be suspected of improper motives for making such a disclosure. But, being under oath, if the House insists, I must obey.

*The Speaker.*—The House insists on your reply to the question.

*Witness.*—I proceed, then, to perform what is now my duty. Understanding now that I am held under an obligation to state everything, even as to general intimation, that I have heard, I proceed. I have understood, that, in the land bounty office, there are—

Thus far had the witness proceeded, when he was interrupted.

Mr. COBB rose, and questioned the propriety of going into an inquiry of the kind now commencing, in this manner. The House, he admitted, had a right to the information it was now proposed to obtain; but it ought to be sought in a proper manner. He put it to the House, whether, by this kind of loose information, the reputation of probably good men ought to be exposed to public obloquy on mere rumor and intimation? He was willing at all times, to give his vote for exposing improper conduct, but he wished it done by evidence, which this hearsay was not.

Mr. HOLMES, of Massachusetts, said, if what the witness had to state was from letters, he should desire to hear it; but if from rumor merely, he should question exceedingly whether the House ought to impeach the reputation of any individual in the Government by this sort of loose inquiry. He suggested that the Speaker should direct the inquiry as to the source of the information about to be stated by the witness, before the name of any clerk was mentioned.

Mr. STROTHER regretted that he deemed it necessary to make some remarks. Through the progress of this business, he said he had remained silent, being willing to be instructed by the wisdom of others more experienced in public business than himself. But he considered the course now proposed as certainly incorrect, involving the character of individuals when they had no opportunity of defending themselves in such a manner as, without just cause, might blast their reputation forever. It was certainly a correct principle; one which would ever guide his course, to investigate the conduct of public servants, and to probe corruption to its source. This was an important duty, particularly confided to this House. But, he said, in performing that duty, it became the House to pursue the course which reason prescribes, and usage sanctions, by a special inquiry into that subject. In inquiring into the guilt or innocence of John Anderson; are we to involve, by loose implication, the character of the officers of our Government? Shall we, by such a course, overwhelm, as with a blighting mildew, the characters of men, in some instances gray with length of years, in others of youths rising into life around the parental board? This is a course, said Mr. L., derogatory to the House, and injurious to the individuals, who, though innocent, may be accounted otherwise by rumor. If suspicion rested on the mind of any member of malversation in office, let a committee be raised, as usual, to inquire into it. It became a republican Government, based in virtue and integrity, to investigate imputed fraud, on the first suggestion of it; and, if it exists, to drive it from among us. He flattered himself that the House would not at present proceed further in this business.

JANUARY, 1818.

*The Public Offices.*

H. OF R.

The SPEAKER said, he had to suggest to the House, that, really, he had himself no information on this subject previous to the examination of the witness, which he had not anticipated would lead to the development of circumstances which he did not suspect. But the question he had put was presented to him by a member for that purpose. The witness answering the question, with a qualification as to his personal knowledge, he (the SPEAKER) had thought it necessary, and yet thought it necessary to pursue the inquiry—not that rumor would be a fit ground to act on, but as it would develop the source whence accurate information could be obtained.

Mr. T. M. NELSON pressed the House to proceed in the inquiry. He hoped and believed that every branch of the Government was pure and incorruptible; but, said he, the smallest speculation having crept into any department of our Government, whether distinguished for authority or servitude, let us nip it in the bud; and if it be found to exist but in the lowest grades of service, I shall rejoice. Vice and immorality can be best attacked and exterminated when in the germ.

Mr. TALLMADGE was under the impression that it would be irregular in the House to permit its attention to be drawn off from the case of John Anderson to an entirely different subject. Mr. T. said that enough had already transpired, with some intimations he had heard, and indeed had seen in the public prints, to determine him, if no other member did, to submit a proposition for inquiry into this subject. He, therefore, took this occasion to say to this House, that, when in order, he would offer a resolution to that effect; and suggested that the House should now proceed in the trial of John Anderson.

The SPEAKER said, the only point for the House to decide was, whether the House should or should not proceed in the examination of the witness before them.

Mr. COBB did not wish to be understood, in the few observations he had made to desire to preclude any investigation of the conduct of the officers of Government of any grade; which, if proposed, he was as willing as any one to support. But what earthly relation, he asked, could there be between the facts the witness was about to develop, and the case of John Anderson? Supposing the fact established that clerks in the public offices had been in the habit of taking bribes, he did not see how that fact would make John Anderson more innocent or more guilty. He objected to this procedure, moreover, of holding up the characters of our officers improperly before the public. Those officers are not here to speak for themselves; and a very little thing, spoken in this way, might go to the destruction of their character. In a proper manner, he added, none would more cheerfully second any motion for inquiry into these matters.

Mr. HOLMES, of Massachusetts, said he was well aware that, when under the influence of any particular excitement, there is danger that we may act wrongly. We were in a little danger, said he, the other day, and should take cau-

tion from experience. When the question was first put to the witness, and he hesitated to answer, Mr. H. confessed he had felt his curiosity excited, and he wished to hear his answer; but, when the suggestion was made that the answer of the witness might operate to injure the character of one who was entirely innocent, he said he had paused. Enough had occurred to convince him that an inquiry should be made, and he was about to put a motion to that effect on paper. But, on more mature consideration, he thought that the House would be more cool in the morning, and better prepared to act. He, therefore, moved to adjourn; and the motion was agreed to.

FRIDAY, January 16.

Mr. POPE presented a petition of the Legislative Council and House of Representatives of the Territory of Illinois, praying that the said Territory may be formed into a State government, and that the State, when formed, may be admitted into the Union, on an equal footing with the original States; which was referred to a select committee; and Messrs. POPE, CLAIBORNE, JOHNSON of Kentucky, SPENCER, and WHITMAN, were appointed the committee.

Mr. ROBERTSON, of Louisiana, from the Committee on the Public Lands, made a report on the petition of George Pearson, which was read; when, Mr. R. reported a bill for the relief of George Pearson; which was read twice, and committed to a Committee of the Whole.

Mr. R. also reported a bill for the relief of John Jones; which was read twice, and committed to a Committee of the Whole.

Mr. ROBERTSON, from the Committee on the Public Lands, to whom had been committed the bill from the Senate, entitled "An act to provide for paying to the State of Indiana three per cent. of the net proceeds arising from the sales of the United States lands within the same," reported the same without amendment; and the bill was committed to a Committee of the Whole.

Mr. HUGH NELSON, from the Committee on the Judiciary, reported a bill to provide for the publication of the laws of the United States and for other purposes; which was read twice, and committed to a Committee of the Whole.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting the annual statement of the tonnage of the United States on the 31st of December, 1816; which was read, and ordered to lie on the table.

A message received yesterday from the President of the United States, in relation to the claim of the representatives of the late Caron de Beaumarchais, was read, and referred to the Committee of Ways and Means.

#### THE PUBLIC OFFICES.

The SPEAKER laid before the House the following letter, which he had received from Joseph Watson, the witness who was yesterday interrogated on the subject referred to in the letter:

H. of R.

The Public Offices.

JANUARY, 1818.

WASHINGTON, January 16, 1818.

SIR: I comply with the injunction of the House, in placing at its disposal the letter alluded to in the answer given by me yesterday to a question which was unexpectedly propounded. Although the letter will speak for itself, yet, in reference to myself, I should observe that at the time the question was answered, my impression was that the letter particularly mentioned that the person therein named was attached to the office of the Secretary of War: that impression must have originated at the time of reading the letter, from the similarity of names.

I beg leave, sir, to avail myself of this opportunity to explain the cause of my hesitating to answer the question alluded to. I then considered it as irrelevant to the subject about which I had been sworn to testify, and hesitated for the purpose of canvassing my right to refuse an answer, and the expediency of subjecting myself to the implications which would have been the concomitants of that refusal.

Unwilling to be dragged before the eye of the public, on a question to which (adverting to my pursuits) so much delicacy is attached, I trust it will not derogate from the high respect I entertain for the honorable body over which you, sir, have the honor to preside, that I would state that the information which I have been called upon to afford, may be officially obtained from the Treasurer's warrant book, and the report of the Secretary of War, which was some time since called for by the House. I will add, however, that, regardless of the consequences, I shall endeavor to acquit myself of any duty which the injunction of the honorable House of Representatives may require from me. I cannot refrain to express my belief that there are clerks who transact agency business, whose small salaries and large families cannot fail to palliate the impropriety of the course.

I have the honor, sir, &c.

JOS. WATSON.

[The letter enclosed states merely that he had employed Mr. L. Edwards to procure certain claims for him at five dollars each, &c.]

The letter having been read—

MR. HOLMES, of Massachusetts, offered for consideration the following resolution:

*Resolved*, That a committee be appointed to inquire whether any and what clerks or other officers in either of the Departments, or in any office at the Seat of the General Government, have conducted improperly in their official duties; and that the committee have power to send for persons and papers.

MR. COLSTON objected to this inquiry now, since the letter just read had shown that the person referred to yesterday was not a clerk; and there remained no probable ground on which to institute an inquiry. If any gentleman would say he had probable cause to believe in malpractices by the clerks, there would be a ground for the proceeding.

MR. TALLMADGE intimated that in some districts of the country an impression did prevail on the minds of some persons that there were incorrect and collusive practices in the public offices. The time had not long passed, he said, when he had been one of those. He explained a particular circumstance, of extremely forbidding aspect, which, on his arrival here, he had thought it his duty to inquire into, and which, on the

inquiry, had been cleared up to his entire satisfaction. He therefore urged, as suspicions were afloat, which the honor of the Government required should be cleared up, it was equally due to the individuals implicated and to the country that the inquiry should proceed.

MR. HOLMES explained his views in offering the resolution, and specifically stated, as a foundation for it, that he had been informed that there was certain business which the clerks did within certain hours; that for what they did after those hours, in some cases compensation had been received from claimants. He did not say the fact was so, but the rumor afforded a fit occasion for inquiry; for, really, he added, if all the clerks now employed in the public offices were not sufficient to do the public business in such a manner as to make it unnecessary for a claimant to employ an agent to get it done, it was high time to remedy the evil.

MR. COMSTOCK hoped the motion would be agreed to; but, at the same time, expressed his pleasure in giving testimony to the honorable and correct conduct of the clerks in the public offices, as far as he was acquainted with it. Some suspicions, however, to the contrary had gone abroad, and that was a sufficient reason for the inquiry.

MR. PARRIS was also in favor of the motion; not that he had any knowledge of frauds in the offices. But, as has been said, certain office hours have been established, say from 10 to 3. Having had considerable business to do for his constituents with the public offices, he had found it invariably the case that the heads of the offices were there attending to business before the clerks belonging to them. There were clerks, he said, who were for days together not at their office. This, he said, was a subject of some interest to the public, and ought to be inquired into. At present the clerks come when they please, and turn the key and go when they please.

MR. HARRISON said, he could not conceive it possible that, for the conduct referred to by Mr. PARRIS, the clerks were as much to blame as the Heads of Departments who permitted it; and who ought, therefore, to come in for their share of the inquiry.

MR. STORNS said, that the particular allegation, whether true or false he did not know, was of misconduct on the part of the clerks in the public offices. The resolution, embracing in its scope the whole machinery of Government, did not afford to the committee any indication of the particular inquiry they were expected to make. If, on every occasion of mere rumor, the House was to appoint committees to investigate the conduct of all the officers of the Government, there was an end at once to legislation, for which no time would be left. Rather he said, let every inquiry be limited to the object; then some good may be expected to result from it. He moved to amend the motion so as that it should be the duty of the committee only to inquire "whether any and what clerks, in any of the public offices, have received any other compensation than that prescribed by law."



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Mr. ROSS was in favor of the inquiry. The clerks in the offices, he said, have no right to receive pay for extra services; and there was danger attending the practice, when it was recollected of what nature were the duties confided to many of them; that of scrutinizing accounts, in regard to which it was self-evident how much depended on the integrity of the clerks. He was the more induced to desire this inquiry, from having heard it rumored, before he left home, that the clerks here do receive pay to a considerable amount, for acting as agents, and getting business through the offices. If so, he hoped such regulations would be adopted, as should put them beyond the reach of temptations too strong for human nature.

Mr. HOLMES opposed the limitation proposed by Mr. STORRS. Whilst we are not over-jealous, said he, I hope we shall not be over-delicate in regard to public officers. He did not think this was a time when the House ought to feel any particular delicacy on the subject. We are told there is money enough in the Treasury, and to spare; the superfluity is a temptation to use it. The time of tranquillity; the present moment, when parties are not worrying each other, is the time to look at the responsibility of the officers of the Government. Let us not be too delicate in our inquiries; if the officer be an honest man, if he be a faithful agent, he will court this inquiry; if otherwise, it is no reason for our shrinking from it, that it will be disagreeable to him.

Mr. LOWNDES stated a fact, bearing on this question, which had come to his knowledge; that, rumors having reached their ears of incorrect practices in the offices, under the color of agencies, the Heads of Departments were deliberating on a rule to prohibit all clerks from acting as agents. Permission had perhaps been occasionally given, under the impression that it would be a general benefit for clerks to act as agents; but an impression appeared to exist, how correctly he did not say, that this permission had been sometimes abused.

The motion of Mr. STORRS was negatived, in the end.

Some further conversation on amendments took place; when

Mr. PINDALL objected to this resolution, because of its indefinite extent, and because it proposed inquiries which were expressly the duty of more than one standing committee of the House. He agreed that this House ought to have a general inquisitorial power to examine and detect abuses; but he said, in making this inquiry, the House was about to assume that power over the different departments of the Government, which belonged to the Executive, and would in so doing impair the Executive responsibility; for which reason, strongly urged, Mr. P. was opposed to the inquiry. He was also opposed to it, because it was not supported by facts to the extent to which it went; and because it proposed to impose on one committee a general inquiry too laborious for them to perform. If the committee to be appointed were willing to assume the responsibility, he was not willing to impose it on them.

Mr. BLOOMFIELD called for the yeas and nays on the question of the passage of the resolve. He wanted to see, he said, who were for forming this House into an inquisition. He censured the present proceeding strongly, as without foundation, and tending to take responsibility from those to whom it belonged.

Mr. AUSTIN urged the inquiry proposed. When the hands of rapacity were extended, and corruption had been proffered to this House, would the House refuse to inquire into alleged abuses of a similar character in other departments of the Government? We, the Representatives of the people (said he) may be considered as the Grand Jury of the Nation; and, when we have reason to believe that any officer of the Government, whatever be his situation, has conducted himself incorrectly in his station, it is our duty to bring him before us, to answer for his conduct.

Mr. EDWARDS said he was no advocate for an inquisition, and yet he should vote for the resolve. Nor was he so uncharitable as to suppose the inquiry would result to the prejudice of the public officers. A sense of justice to them, together with a desire to ferret out guilt, if it existed, induced him to favor an inquiry into the justice of suspicions, which however, appeared to him to rest on a slender basis.

Mr. RICH, not being satisfied in his own mind as to the propriety of the present course, moved to lay the resolution on the table.

Mr. WHITMAN, thinking the proposed inquiry would infringe on the responsibility of the Heads of Departments, and that it moreover involved a sort of scrutiny into the minutiae of the public offices, not consistent with the dignity of the House, proposed to amend the resolve so as that it should only direct the Heads of the several Departments to inquire into this matter, and report thereon to the House. [But his motion was declared not to be in order.]

Mr. SOUTHARD said he was surprised to hear so much opposition made to an inquiry of this sort; which he had never witnessed on any former occasion.

The question was at length taken on the resolution, which was agreed to by a large majority.

#### COLONEL ANDERSON'S CASE.

John Anderson was then remanded to the bar of the House, and proceeded in the further examination of his witnesses.

General P. B. Porter, William O'Neale, and W. P. Rathbone, were then examined as witnesses in behalf of the accused, whose testimony was to the same effect as that given yesterday.

Mr. WILLIAMS, of North Carolina, was then called upon by the accused, who put to him this question:

*Question.* Did I ever directly or indirectly, by any verbal communication, offer you any reward or inducement, to influence your good opinion in favor of my claim, or of any other claims?

*Answer.* You never made me any verbal offer of the kind.

*Colonel Anderson.* That is all I wished the House to know from your testimony.

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*Mr. Williams.* I presume, if you had made me any such offer, the House would have known it, without your asking it.

*Mr. WILSON*, of Pennsylvania, being also called upon, testified that Colonel Anderson had disclaimed, on finding that the letter had offended *Mr. WILLIAMS*, any intention of offering the money to him with any other view than as a compensation for extra trouble.

On further questions by the *SPEAKER* to John Anderson, it appears that the accused is a native of Scotland, came to this country at three years old, and is a naturalized citizen.

The *SPEAKER* then said, he had been instructed to propound to the prisoner the following interrogatory, to which Colonel Anderson made the reply subjoined:

*Question.* In writing the letter to Lewis Williams, a member of this House from North Carolina, in which you offer to him the sum of five hundred dollars, for services to be performed by him in relation to claims for losses sustained during the late war, had you or had you not any intention to induce him to support your claims against his own convictions of their justice, or to interfere with the discharge of his legislative duties, or to offer any contempt or indignity to the House of Representatives?

*Answer.* No, sir—I call God to witness to that, which is the most sacred appeal I can make. I repeatedly assured him, that the offer was made without any wish to influence his opinion in any degree.

The accused was then questioned whether he had other witnesses to examine; he replied in the negative. The *SPEAKER* then called upon him for the defence which he had intimated it was his intention to offer.

The prisoner, then addressing the Chair, with much earnestness, in a brief manner, stated the same palliations of the offence with which he stood charged, as are explained more at large in the following address, which he concluded by delivering to the Clerk, by whom it was read:

“Arraigned at the bar of the highest tribunal of the nation, for an alleged infringement of its privileges, an attack upon its dignity, and the honorable feelings of one of its members, to express the sincere regret I experience, and to apologize for the error I have committed, ought not to suffice. To that body and to myself, I owe an explanation of the motives which governed my conduct. That I have been found in the ranks of our country’s defenders, is known to many; and that I have sustained a character unblemished by any act which should crimson my withered cheeks, has been amply proven to you, by men, whose good opinions are the greatest boon of merit. The commencement of the late war found me environed by all the comforts of life; blessed with a sufficiency of property to enable me to wipe from the face of distress the falling tear, and to flatter myself that want was not to salute me before the return of peace. The fallacy of my hopes has been too clearly demonstrated, by the ravages of the war on the borders of Raisin, (my residence,) and the destruction of all the property which my industry had amassed. After having seen the streets of Frenchtown overgrown with grass; sighed unavailingly over the ashes of my own and my neighbors’ houses, and witnessed their necessities;

reduced to sustain life by means of wild animals, (muskrats,) whose very smell is repulsive to the stomach; I gladly hailed the beneficence of my Government in the enactment of the law, usually called the property act, and, in the month of January, 1817, I took leave of my friends and fellow-sufferers, and repaired to this city to manage their claims; on my arrival, I found that the act under which they expected relief had been suspended, and I was forced to return with this unwelcome information; tears of disappointment suffused the countenances of every one—my heart sympathized with theirs, and I then determined to prosecute their claims to a result. With this view, I had been in this city more than a month; over-anxious to accomplish my object, exalted with the success which had attended some of the claims, and convinced that the Committee of Claims was overwhelmed with business, my inexperience in reference to legislative proceedings induced me to suppose that, to insure despatch, I might without impropriety approach the chairman of the committee with a proposal to compensate him for extra trouble.” That I have erred, grossly erred, I am convinced, and my only consolation is, that error is no crime, when it is of the head, not of the heart. Had I acted with less precipitation, and consulted the views of others, I should not at this time find myself in the disagreeable dilemma that I am. I should have acted more consistent with myself. Whatever semblance my request of secrecy may assume, I can with truth aver that its basis in my mind was a desire that those for whom I act should have to acknowledge their increased gratitude for the promptitude with which their claims should have been acted upon.

“It cannot be denied, that, after being assured that my own claims would be allowed, I had less cause to think of obtaining by corruption the payment of claims which I almost knew the justice of Congress could not refuse in the sequel. Despatch, then, was all I wished for—all I could gain;—and I think that the world and this honorable body will admit that the benefit of the relief would be in proportion to the time which should elapse in affording it; at least, that in this view it would be appreciated by those who have yet fresh in their recollection that a husband, a wife, a father, a child, a brother, or sister, was tomahawked, shot, or burnt alive, by the savage enemy, their hearts inhumanly torn from their bodies, and whilst yet smoking with the vital heat, were triumphantly exhibited to their weeping eyes. Let it be recollected that they have witnessed, whilst wandering without shelter, and almost unclothed, the heart-rending scene—dead bodies exposed to the voracious appetites of the swine, and these animals eagerly contending for a leg or an arm! Lest this picture may be supposed to be exaggerated, I annex the correspondence which took place between the Hon. A. B. Woodward and General Proctor, in the year 1813, and shortly after the event occurred. Let it be known that most if not all the articles they could collect from the ruins of their houses were generously—most generously—appropriated in the purchase of prisoners of war, for the purpose of screening them from the bloody tomahawk; that these purchases were made under such circumstances as not to entitle them to reimbursement under the ‘Act relating to the ransom of American captives of the late war.’ And let it also be known that such are the sufferings, such the merits of the claimants I represent. And I feel confident that the clouds of indignation which for a moment threatened to burst over my frosty head will

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be dispelled by the benign influence of philanthropy—an influence which has ever, and I trust ever will, characterize my conduct.

"That I should be anxious to afford a prompt solace to the sufferings of my fellow-citizens will not be wondered at when it is known that they extended every kindness and protection to my family, (from whom I was separated during the most of the war,) and at a time when the Indians were accustomed to dance before the door of my house, calling upon my wife to come out and select her husband's scalp.

"Relying upon the maxim, that 'To err is human, to forgive divine,' I throw myself upon the indulgence of this honorable body, and the magnanimity of the honorable gentleman whose feelings I have had the misfortune to wound. If my services form no claim to indulgence, perhaps my sufferings and those of my family may. I stand here to meet all the consequences of an error committed without any sinister intention.

"In conclusion, I must be permitted to remark, that, during my confinement, from which I have forborne to adopt any legal measures to extricate myself, the only feelings of pain which have had access to my breast were those produced by the knowledge that an opinion was prevalent, that, presuming on the misfortunes of my fellow-sufferers, I had bought up their claims at a very reduced price. If this honorable body would permit, I would, under the solemnity of an oath, call upon God to bear testimony that this opinion is without basis.

JOHN ANDERSON.

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The prisoner being asked if he had anything further to say, and answering in the negative, was taken from the bar, and the House proceeded to deliberate on the course now proper to be pursued.

Mr. FORSYTH offered for consideration a motion in substance like that which was ultimately adopted, but which proposed Wednesday next as the day on which John Anderson should be brought to the bar.

A variety of propositions, suggestions, and remarks, were made on this occasion, which it would be difficult, if it were important, accurately to report.

One motion, on which the yeas and nays were taken, is worthy of particular notice. It was made by Mr. POINDEXTER, to strike out of that passage which charged John Anderson with being guilty of a contempt against the privileges of the House, the words *the privileges of*; thus denying the House to have any privileges not conferred on them by the Constitution. This motion was negatived—108 to 54.

The will of the House was ultimately consummated by the passage of a resolution, in the following words:

"Resolved, That John Anderson has been guilty of a contempt and a violation of the privileges of the House, and that he be brought to the bar of the House this day, and be there reprimanded by the Speaker for the outrage he has committed, and then discharged from the custody of the Sergeant-at-Arms."

Whereupon, John Anderson was brought to the bar of the House, and addressed by the SPEAKER, as follows:

"John Anderson: You have been brought before this House upon a charge of having committed a breach of

its privileges, in attempting to bribe one of its members, filling a high and responsible situation. The House has patiently heard you in your defence, and, in proportion to the pleasure which it has derived from the concurrent testimonies in support of your character and good conduct heretofore, is its deep regret that you have deliberately attempted to commit a crime so entirely incompatible with the high standing you have heretofore maintained. You have the less apology for the attempt which you made, because you had yourself experienced the justice of this House but a few days before, by the passage of two bills in your favor, founded on petitions presented to the House. Your attempt to corrupt the fountain of legislation—to undermine the integrity of a branch of the National Legislature—is a crime of so deep a dye that even you must acknowledge and be sensible of it. And if, John Anderson, you could have been successful in such an attempt—if it were possible that Representatives of the people could have been found so lost to their duty as to accept your offer—you must yourself see the dreadful consequence of such a deplorable state of things: In your turn you might fall a victim; for your rights, your liberty, and your property, might in the end equally suffer with those of others. The House has seen with pleasure, that, at a very early period after making your base offer, you disclaimed, with symptoms of apparent repentance and contrition, any intention to corrupt the integrity of a member; and, in directing me to pronounce your discharge, the House indulges the hope that, on your return home, you will be more fully convinced of the magnitude of your offence, and by the future tenor of your life endeavor to obliterate, as far as it may be possible, the stain your conduct on this occasion has impressed on the high and honorable character you appear to have previously sustained. You are discharged from the custody of the Sergeant-at-Arms."

Whereupon, John Anderson was discharged from custody, and the House adjourned to Monday.

MONDAY, January 19.

Mr. LOWNDES made a report on the petition of Gad Worthington, which was read; when, Mr. L. reported a bill for the relief of the said Gad Worthington; which was read twice, and committed to a Committee of the Whole tomorrow.

The Committee of Ways and Means were discharged from the further consideration of the claim of the representative of the late Caron de Beaumarchais, and it was referred to the Committee of Claims.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, reported a bill for the relief of Sarah Dewees, relict and widow of William Dewees, deceased, and the heirs and legal representatives of the said William Dewees; which was read twice, and committed to a Committee of the Whole.

The Committee of Elections were discharged from a further consideration of the petition of Armistead T. Mason, contesting the election of Charles F. Mercer; and leave was given to withdraw the same.

On motion of Mr. NEWTON, the Committee on Commerce and Manufactures were instructed to

inquire into the expediency of erecting a light-house, at Windmill Point, on the Chesapeake bay.

On motion of Mr. HARRISON, the Committee on the Public Lands were directed to inquire into the expediency of authorizing the State of Ohio, to sell thirty-five sections of land, heretofore granted to the said State, for the support of the Scioto salt works, but which are no longer useful for that purpose.

On motion of Mr. HOPKINSON, the Committee on the Judiciary were instructed to inquire what fees have been charged and received by the district attorney, of the southern district of the State of New York, in prosecutions brought by him against retailers of spirits for vending them without license; and, also, what fees have been received and charged in the same cases, by the other officers of the United States, in the courts of the United States, in the said southern district of the State of New York, and that said committee have power to send for persons and papers.

The amendment proposed by the Senate to the bill entitled "An act for the relief of Winslow and Henry Lewis," was read, and concurred in by the House.

The amendment proposed by the Senate to the bill, entitled "An act allowing compensation to the members of the Senate and members of the House of Representatives of the United States, and Delegates of Territories, and repealing all other laws upon that subject," was read, and concurred in by the House.

*Ordered*, That a letter from Joseph Watson, laid before this House on the 16th instant, be referred to the committee, appointed on that day, to inquire into the conduct of certain clerks and other officers of the General Government.

#### MILITARY APPROPRIATIONS.

On motion of Mr. LOWNDES, the House having resolved itself into a Committee of the Whole on the bill making appropriations for the support of the Military Establishment for 1818; the several appropriations passed without opposition, except one which provides for the appropriation of thirty-five thousand dollars to compensate such brevet officers as may be placed in service in such situations as to entitle them to pay according to their brevet rank.

This provision Mr. LOWNDES moved to strike out of the bill.

Whereupon, a debate arose on the expediency of continuing this allowance.

Those who supported the motion to strike out this section, were Messrs. LOWNDES, CLAY, SERGEANT, and REED of Maryland; and those who opposed it, were Messrs. MERCER, HARRISON, OGLE, BALDWIN, and SMYTH. Mr. CULBRETH and Mr. TAYLOR also expressed their views of it.

The motion was founded on the absence of any necessity for employing brevet officers in situations, entitling them to pay beyond that attached to their lineal rank, and was supported on that and other grounds. It was opposed on the ground that, as the law now authorizes the employment

and extra pay of such officers when commanding separate posts, &c., it contains a compact which the Government ought not to annul, between it and the officers; and, also, on the ground that, while the law exists, the appropriations ought to be made accordingly.

The motion to strike out this clause prevailed by a large majority.

The remainder of the bill having been gone through, the bill was reported to the House, and was ordered to be engrossed.

#### TUESDAY, January 20.

The Committee of Claims were discharged from the further consideration of the claim of the representative of the late Caron De Beaumarchais, and it was referred to a select committee; and Messrs. BASSETT, BALDWIN, SPENCER, INGRAM, and ERVIN of South Carolina, were appointed the committee.

Mr. HERRICK, from the Committee on Private Land Claims, reported a bill for the relief of certain friendly Creek Indians of the mixed blood; which was read twice, and committed to a Committee of the Whole.

Mr. NEWTON, from the Committee of Commerce and Manufactures, reported a bill for the relief of the houses of Thomas and John Clifford, Elisha Fisher and Company, Thomas Clifford and Son, and Thomas Clifford of Philadelphia, and Charles Wirgman of Baltimore; which was read the first and second time, and committed to a Committee of the Whole to-morrow.

Mr. SERGEANT, from the Committee appointed on the petition of the President and Directors of the Bank of the United States, by leave of the House, reported a bill to amend the act, entitled "An act to incorporate the subscribers to the Bank of the United States;" which was read twice, and committed to a Committee of the Whole.

Mr. BASSETT, from the committee appointed on the petition of Commodore John Rodgers, made a report thereon; which was read; when Mr. B. reported a bill for the relief of Commodore John Rodgers; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. HITCHCOCK, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of changing the name of the "district of Erie," in the State of Ohio, so that the same may be hereafter known by the name of "the district of Cuyahoga."

Mr. BASSETT submitted the following amendment to the standing rules and orders of the House; which was read, and ordered to lie on the table until to-morrow:

"Every subject which, by leave of the House, shall be made the special order of the day for any particular day, shall, on that day, have precedence of all other orders of the day, except the unfinished business of the preceding day."

The SPEAKER laid before the House, a letter from the Secretary of the Treasury, transmitting his report of such "measures as may be neces-

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sary for the more effectual execution of the laws for the collection of the duties on imported goods, wares, and merchandise;" which was referred to the Committee of Ways and Means.

The SPEAKER laid before the House a letter from the Secretary of the Navy, transmitting the annual report of the Commissioners of the Navy Pension Fund; which was ordered to lie on the table.

The SPEAKER also laid before the House a report of the Secretary of the Navy in relation to naval hospitals, made in obedience to a resolution of the 22d ultimo, accompanied with a report of the Commissioners of Naval Hospitals upon the subject of hospitals generally; which was referred to the Committee on Naval Affairs.

The bill making appropriations for the arrears of military supplies, was ordered to be engrossed for a third reading.

### BREVET RANK.

The House then resumed the consideration of the report of yesterday's Committee of the Whole, on the military appropriation bill for the year 1818.

The question to concur in the amendment which strikes out the allowance of \$35,000 to defray the expense of extra pay to brevet officers, who hold separate commands of districts or posts, according to their brevet rank—gave rise to much debate, of considerable interest, and was at length decided by yeas and nays. Messrs. MERCER, INGHAM, HARRISON, ROBERTSON, and PALMER, opposed the amendment, and Messrs. LOWNDES, PITKIN, JOHNSON of Kentucky, and FORSYTH, supported it.

On the one hand, it was said that a strained construction had been given to that provision of the law of 1812, which authorizes pay according to the brevet rank, to such brevet officers of the Army as are employed on separate stations, which provision was meant only to apply to necessary detachments, &c.; that the House had at the last session endeavored to remedy what they thought an evil in this respect, by an express provision of law, which had been rejected in the Senate; that, in the only way in which it was probable the object could be reached, it was proper for the House to attempt it, by refusing, in the exercise of their legitimate power, the appropriations required for that object; that if the construction given by the Executive to the law was correct, it was yet inexpedient to continue it, for reasons connected with the good of the service, and with the principle of equal justice to all officers similarly situated; and that brevet rank was in itself, especially under its present construction, injurious to the interests of the Army, and of the nation.

On the other hand, it was urged, that the law of 1812, so far as it regarded brevet rank, was in the nature of a compact, which this House ought not to violate; that the Executive had correctly construed the law, and could not well have done otherwise, particularly with the four brevet Major Generals, than by placing them on

separate command; that at present, of seventy-two brevet officers, about twenty-seven only were so stationed as to entitle them to brevet pay; that the number of brevet officers would daily diminish, and soon be entirely merged in the lineal rank, as they became entitled to promotion; that it was inexpedient to rob these officers, whose high character and services were generally acknowledged, of this little pittance, &c.; that, if it were admitted too great a latitude had been taken in the administration of the law, it could only be corrected by a modification or repeal of the law, and not by this indirect course, which would have the effect merely to shift the responsibility from the shoulders of the Executive officers on those of this House.

By such, and similar arguments, the motion was defended and opposed. On the question, the House agreed to concur with the committee in striking out the provision for brevet pay by a vote of 130 to 30, as follows:

YEAS—Messrs. Abbott, Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Anderson of Kentucky, Austin, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Bayley, Beecher, Bellinger, Bennett, Bloomfield, Boss, Bryan, Burwell, Butler, Campbell, Claiborne, Cobb, Cramstock, Cook, Crafts, Crawford, Culbreth, Cushman, Desha, Drake, Earle, Edwards, Ellicott, Ervin of South Carolina, Folger, Forsyth, Fuller, Gage, Garnett, Hale, Hall of Delaware, Hendricks, Herbert, Herrick, Heister, Hitchcock, Hogg, Holmes of Massachusetts, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Huntington, Johnson of Virginia, Johnson of Kentucky, Kinsey, Lawyer, Linn, Little, Lowndes, McLane, W. Maclay, W. P. Maclay, McCoy, Marchand, Marr, Mason of Massachusetts, Mason of Rhode Island, Merrill, Moore, Morton, Moseley, Mumford, Murray, Jeremiah Nelson, Nesbitt, New, Newton, Owen, Parris, Patterson, Pawling, Pitkin, Porter, Quarles, Reed, Rhea, Rich, Richards, Robertson of Kentucky, Rugles, Sampson, Savage, Sawyer, Schuyler, Scudder, Sergeant, Settle, Shaw, Sherwood, Silsbee, Slocumb, Ballard Smith, J. S. Smith, Southard, Spangler, Speed, Strong, Stuart, Tallmadge, Tarr, Taylor, Tompkins, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Westerlo, Whiteside, Whitman, Williams of Connecticut, Williams of North Carolina, Wilkin, and Wilson of Pennsylvania.

NAYS—Messrs. Baldwin, Ball, Blount, Clagett, Colston, Cruger, Forney, Harrison, Ingham, Irving of New York, Jones, Kirtland, Mercer, T. M. Nelson, Ogden, Ogle, Orr, Palmer, Parrott, Peter, Pindall, Pleasants, Poindexter, Robertson of Louisiana, Seybert, Alexander Smyth, Spencer, Storrs, Terry, and Williams of New York.

The remaining amendment was then concurred in by the House, and the bill was ordered to be engrossed and read a third time to-morrow.

### GENERAL KOSCIUSKO.

Mr. HARRISON submitted the following resolution; which was read, and ordered to lie on the table:

*Resolved, That a committee be appointed, jointly*

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with such committee as may be appointed on the part of the Senate, to consider and report what measures it may be proper to adopt to manifest the public respect for the memory of General Thaddeus Kosciusko, formerly an officer in the service of the United States, and the uniform and distinguished friend of liberty and the rights of man.

Mr. HARRISON accompanied his motion with the following observations:

The public papers have announced an event which is well calculated to excite the sympathy of every American bosom! Kosciusko, the martyr of liberty, is no more! We are informed that he died at Soleure, in France, some time in October last.

In tracing the events of this great man's life, we find in him that consistency of conduct which is the more to be admired as it is so rarely to be met with. He was not at one time the friend of mankind, and at another the instrument of their oppression;—but he preserved throughout his whole career those noble principles which distinguished him in its commencement—which influenced him at an early period of his life to leave his country and his friends, and in another hemisphere to fight for the rights of humanity.

Kosciusko was born and educated in Poland, of a noble and distinguished family—a country where the distinctions in society are perhaps carried to greater lengths than in any other. His Creator had, however, endowed him with a soul capable of rising above the narrow prejudices of a caste, and breaking the shackles which a vicious education had imposed on his mind.

When very young, he was informed by the voice of fame that the standard of liberty had been erected in America—that an insulted and oppressed people had determined to be free, or perish in the attempt. His ardent and generous mind caught, with enthusiasm, the holy flame, and from that moment he became the devoted soldier of liberty.

His rank in the American army afforded him no opportunity greatly to distinguish himself. But he was remarked, throughout his service, for all the qualities which adorn the human character. His heroic valor in the field, could only be equalled by his moderation and affability in the walks of private life. He was idolized by the soldiers for his bravery, and beloved and respected by the officers for the goodness of his heart, and the great qualities of his mind.

Contributing greatly, by his exertions, to the establishment of the independence of America, he might have remained, and shared the blessings it dispensed, under the protection of a chief who loved and honored him, and in the bosom of a grateful and affectionate people.

Kosciusko had, however, other views. It is not known that, until the period I am speaking of, he had formed any distinct idea of what could, or indeed what ought, to be done for his own. But in the Revolutionary war he drank deeply of the principles which produced it. In his conversations with the intelligent men of our country, he acquired new views of the science of govern-

ment and the rights of man. He had seen, too, that to be free it was only necessary that a nation should will it, and to be happy it was only necessary that a nation should be free. And was it not possible to procure these blessings for Poland? For Poland, the country of his birth, which had a claim to all his efforts, to all his services? That unhappy nation groaned under a complication of evils which has scarcely a parallel in history. The mass of the people were the abject slaves of the nobles; the nobles, torn into factions, were alternately the instruments and the victims of their powerful and ambitious neighbors. By intrigue, corruption, and force, some of its fairest provinces had been separated from the Republic, and the people, like beasts, transferred to foreign despots, who were again watching for a favorable moment for a second dismemberment. To regenerate a people thus debased—to obtain for a country thus circumstanced, the blessings of liberty and independence, was a work of as much difficulty as danger. But, to a mind like Kosciusko's, the difficulty and danger of an enterprise served as stimulants to undertake it.

The annals of these times give us no detailed account of the progress of Kosciusko in accomplishing his great work, from the period of his return from America to the adoption of the new constitution of Poland, in 1791. This interval, however, of apparent inaction, was most usefully employed to illumine the mental darkness which enveloped his countrymen. To stimulate the ignorant and bigotted peasantry with the hope of future emancipation—to teach a proud but gallant nobility that true glory is only to be found in the paths of duty and patriotism—interests the most opposed, prejudices the most stubborn, and habits the most inveterate, were reconciled, dissipated, and broken, by the ascendancy of his virtues and example. The storm which he had foreseen, and for which he had been preparing, at length burst upon Poland. A feeble and unpopular government bent before its fury, and submitted itself to the Russian yoke of the invader. But the nation disdained to follow its example; in their extremity every eye was turned on the hero who had already fought their battles—the sage who had enlightened them, and the patriot who had set the example of personal sacrifices to accomplish the emancipation of the people.

Kosciusko was unanimously appointed Generalissimo of Poland, with unlimited powers, until the enemy should be driven from the country. On his virtue the nation reposed with the utmost confidence; and it is some consolation to reflect, amidst the general depravity of mankind, that two instances, in the same age, have occurred, where powers of this kind were employed solely for the purposes for which they were given.

It is not my intention, sir, to follow the Polish chief throughout the career of victory which, for a considerable time, crowned his efforts. Guided by his talents, and led by his valor, his undisciplined illy-armed militia charged with effect the veteran Russian and Prussian; the mailed cuirassiers of the great Frederick, for the first time,



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broke and fled before the lighter and appropriate cavalry of Poland. Hope filled the breast of the patriots. After a long night, the dawn of an apparently glorious day broke upon Poland. But, to the discerning eye of Kosciusko, the light which it shed was of that sickly and portentous appearance, indicating a storm more dreadful than that which he had resisted.

He prepared to meet it with firmness, but with means entirely inadequate. To the advantages of numbers, of tactics, of discipline, and inexhaustible resources, the combined despots had secured a faction in the heart of Poland. And, if that country can boast of a WASHINGTON, it is disgraced also by giving birth to a second Arnold. The day at length came which was to decide the fate of a nation and a hero. Heaven, for wise purposes, determined that it should be the last of Polish liberty. It was decided, indeed, before the battle commenced. The traitor Poniski, who covered with a detachment the advance of the Polish army, abandoned his position to the enemy and retreated.

Kosciusko was astonished, but not dismayed. The disposition of his army would have done honor to Hannibal. The succeeding conflict was terrible. When the talents of the General could no longer direct the mingled mass of combatants, the arm of the warrior was brought to the aid of his soldiers. He performed prodigies of valor. The fabled prowess of Ajax, in defending the Grecian ships, was realized by the Polish hero. Nor was he badly seconded by his troops. As long as his voice could guide, or his example fired their valor, they were irresistible. In this unequal contest Kosciusko was long seen, and finally lost to their view.

"Hope for a season bade the world farewell,  
And Freedom shriek'd when Kosciusko fell."

He fell covered with wounds, but still survived. A Cossack would have pierced his breast, when an officer interposed. "Suffer him to execute his purpose," said the bleeding hero; "I am the devoted soldier of my country, and will not survive its liberties." The name of Kosciusko struck to the heart of the Tartar, like that of Marius upon the Cimbrian warrior. The uplifted weapon dropped from his hand.

Kosciusko was conveyed to the dungeons of Petersburg; and, to the eternal disgrace of the Empress Catharine, she made him the object of her vengeance, when he could be no longer the object of her fears. Her more generous son restored him to liberty. The remainder of his life has been spent in virtuous retirement. Whilst in this situation in France, an anecdote is related of him which strongly illustrates the command which his virtues and his services had obtained over the minds of his countrymen.

In the late invasion of France, some Polish regiments, in the service of Russia, passed through the village in which he lived. Some pillaging of the inhabitants brought Kosciusko from his cottage. "When I was a Polish soldier," said he, addressing the plunderers, "the property of the

peaceful citizen was respected." "And who art thou," said an officer, "who addresses us with this tone of authority?" "I am Kosciusko!" There was magic in the word. It ran from corps to corps. The march was suspended. They gathered round him, and gazed, with astonishment and awe, upon the mighty ruin he presented. "Could it indeed be their hero," whose fame was identified with that of their country? A thousand interesting reflections burst upon their minds; they remembered his patriotism, his devotion to liberty, his triumphs, and his glorious fall. Their iron hearts were softened, and the tear of sensibility trickled down their weather-beaten faces. We can easily conceive, sir, what would be the feelings of the hero himself in such a scene. His great heart must have heaved with emotion, to find himself once more surrounded by the companions of his glory; and that he would have been upon the point of saying to them—

"Behold your General! come once more  
To lead you on to laurel'd victory,  
To fame, to freedom."

The delusion, could have lasted but for a moment. He was himself, alas! a miserable cripple; and, for them! they were no longer the soldiers of liberty, but the instruments of ambition and tyranny. Overwhelmed with grief at the reflection, he would retire to his cottage to mourn afresh over the miseries of his country.

Such was the man, sir, for whose memory I ask from an American Congress a slight tribute of respect. Not, sir, to perpetuate his fame—but our gratitude. His fame will last as long as liberty remains upon the earth; as long as a votary offers incense upon her altar, the name of Kosciusko will be invoked. And if, by the common consent of the world, a temple shall be erected to those who have rendered most service to mankind, if the statue of our great countryman shall occupy the place of the "Most Worthy," that of Kosciusko will be found by his side, and the wreath of laurel will be entwined with the palm of virtue to adorn his brow.

WEDNESDAY, January 21.

Another member, to wit: from Massachusetts THOMAS RICE, appeared, produced his credentials, and took his seat.

The House proceeded to consider the amendment proposed yesterday by Mr. BASSETT, to the standing rules and orders of the House, and the same being modified to read as follows:

"Every subject which, by leave of the House, shall be made the special order of the day for any particular day, (and which shall in all cases be decided without debate,) shall, on that day, have precedence of all other orders of the day, except the unfinished business of the preceding day."

The question was taken to agree thereto, and determined in the negative.

A message from the Senate informed the House that the Senate have passed "a resolution directing the publication and distribution of the journal, and proceedings of the convention which

formed the present Constitution of the United States;" in which resolution they ask the concurrence of this House.

Engrossed bills of the following titles, to wit:

An act making appropriations for the payment of the arrearages which have been incurred for the support of the Military Establishment previous to the 1st of January, 1810; and.

An act making appropriations for the support of the Military Establishment of the United States, for the year 1818, were severally read the third time, and passed.

#### JUDICIAL RECORDS.

The remainder of the day was spent in Committee of the Whole in debating the bill prescribing the effect of certain judicial records.

Mr. PAWLING, Mr. PINDALL, and Mr. STORRS, delivered speeches of considerable length against the bill, and Mr. SPENCER replied, also at considerable length.

The Committee having risen, and the bill being before the House—

Mr. FORSYTH, to try the principle of the bill, which, having been so largely debated, must by this time be perfectly understood, moved to postpone the bill indefinitely.

The question on this motion was taken without debate, and decided in the affirmative by a large majority.

So the bill, after so much learning, labor, and ability displayed upon it, was finally rejected.

#### THURSDAY, January 22.

Mr. BLOUNT presented a petition of the third convention of the Manumission Society of Tennessee, praying that some measures may be adopted to ameliorate the condition of the slave population of the United States.—Referred to the Committee appointed on the petition of the representatives of the annual meeting of the Society of Friends, in Baltimore.

Mr. LOWNDES, from the Committee of Ways and Means, to whom was referred the bill from the Senate, entitled "An act to allow the benefit of drawback, on merchandise transported by land conveyance, from Bristol to Boston, and from Boston to Bristol, in like manner as if the same were transported coastwise;" reported the same without amendment, and it was ordered to be read a third time to-morrow.

On motion of Mr. BARBER, of Ohio, the Committee on the Public Lands were instructed to inquire into the expediency of increasing the salary of the register and receiver of public moneys at Marietta.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act in addition to an act, making appropriations for repairing certain roads, therein described," in which they ask the concurrence of this House.

The bill was read twice, and committed to the committee appointed on that part of the President's Message which relates to roads, canals, and seminaries of learning.

The resolution from the Senate, directing "the publication and distribution of the journal, and proceedings of the convention which formed the present Constitution of the United States," was read twice, and committed to the committee appointed by this House on the 7th instant, upon that subject.

#### GENERAL KOSCIUSKO.

Mr. HARRISON, of Ohio, having withdrawn the resolution he offered for consideration yesterday, to which he understood there was considerable objection, on the ground of its being in a joint form, moved, in lieu thereof, a resolve to the following effect, with a view to expressing the sense of this House alone on the subject:

*Resolved*, That this House, entertaining the highest respect for the memory of General Kosciusko, his services, &c., the members thereof will testify the same by wearing crape on the left arm for one month.

After some debate, in which this motion was supported by Mr. HARRISON, and opposed by Messrs. REED, FORSYTH, and DESHA—

Mr. HARRISON withdrew his resolution altogether, seeing it was opposed, and that the want of unanimity would destroy its value—satisfied that, in moving and supporting it, he had acquitted his conscience.

[In the short debate on this question, the merits of Kosciusko, the advocate of freedom, and the friend of man, were fully admitted; but, it was shown, that no such respect as was now proposed had been paid to any of the departed worthies, native or foreign, who had aided in the achievement of our independence, except in the single case of General WASHINGTON, which was admitted to be an exception to all general rules. Having as recently as 1810, refused a like tribute to the memory of Colonel William Washington, on his decease, it was too late now, it was deemed, to commence a new system in this respect.]

#### INDIAN AFFAIRS.

Mr. SOUTHARD, from the committee appointed on so much of the President's Message as relates to Indian Affairs, made a report upon the subject, which was read; when, Mr. S. reported a bill, for establishing trading trading-houses with the Indian tribes, and for the organization and encouragement of schools for their instruction and civilization; which was read twice, and committed to a Committee of the Whole. The report is as follows:

The committee to whom was referred so much of the President's Message as relates to Indian affairs, report: That the capital appropriated for prosecution of Indian trade was, in 1809, augmented from \$200,000 to \$300,000; which sum, by succeeding acts, has been continued down to this period. Of the capital thus appropriated, \$290,000 have been drawn from the Treasury, and actively employed under direction of the Superintendent of Indian Supplies. Under the various laws enacted for the support and encouragement of Indian trade, eight factories or trading posts have been established at the following points:

1. Fort Mitchell, Georgia.
2. Chickasaw Bluffs, Mississippi Territory.

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3. Fort Confederation, on the Tombigby river.
4. Fort Osage, on the Missouri river, near the mouth of the Osage.
5. Prairie du Chien, on the Mississippi, near the mouth of the Wisconsin river.
6. Ordered to Sulphur Fork, on Red river, formerly at Natchitoches.
7. Green Bay, on the Green Bay of Lake Michigan, Illinois Territory.
8. Chicago, Lake Michigan.

The committee deem it unnecessary to present a detailed view of the profits and loss of each particular agency, and submit, in relation to the general establishment, that it has been a losing institution, owing, it is presumable, to adventitious circumstances, originating in our late belligerent state, and not growing out of any defect in the organization or government of the trade. From the first operation of this traffic, up to December, 1809, it sustained a loss of \$44,538 36. Since that period the trade has been more successful, it having yielded a profit, on the capital actually vested in the merchandise, of about \$15,000 annually, after covering a loss of \$13,369, which accrued in consequence of the capture of several trading posts by the enemy during the late war.

In this view of the subject the committee have not embraced an item of \$20,000, annually disbursed at the Treasury for the Superintendent and his clerks, the factories, &c., and which, when applied to the concern, as necessarily it must be in making an estimate of profit and loss, will absorb the profits arising from the funds employed in trade, and furnish an annual charge against the establishment of \$5,000. This annual loss being sustained by the Treasury, pursuant to appropriations for the pay of the Superintendent and his assistants, is a loss to the Government but not to the concern, in the diminution of its capital, which, under all circumstances, remains stationary.

The act passed 29th of April, 1816, giving to the President the discretionary power of licensing foreigners to a participation in the Indian trade, is less exceptionable in theory than in practice. With all the guards of the act and precautions of the Executive, it has been found impracticable, under dispensing power, to avoid the admission of men of vicious habits, whose conduct tends to interrupt the peace and harmony of the United States and the Indian tribes; nor can such be introduced while the door is left open to foreign traders; either admit or exclude all. A system partial in its character will, by inhibiting a worthy applicant, do him injustice; and, by permitting the fraudulent speculator, the savage for whom the provision is made and the country are wronged. The Executive must rely on recommendations in the exercise of the power deposited with him, and, no doubt, is often deceived in the character of persons recommended to Presidential patronage.

The committee are apprized that the exclusion of foreigners will be attended with a momentary irritation, and a temporary expense to the nation, as the inhibition will devolve on the Government an obligation to increase its trading posts and augment Indian capital, so as to supply the wants of such tribes as are now dependent on foreign trade. The prosecution of this policy will be strongly aided by the additional vigor with which the system will inspire the commercial enterprise of the American citizen. The committee has been unable to ascertain with any degree of accuracy the amount of capital employed by foreigners

in this trade, consequently it is somewhat at a loss to suggest the amount necessary to fill the vacuum that may be occasioned by the withdrawing of foreign capital; but, from the best lights which have been afforded, the committee are induced to believe that — dollars, in addition to the present appropriations, having the auxiliary exertions of individual enterprise, and aided by a superintendence at St. Louis, or some other suitable place, could be amply sufficient to accomplish what must be desirable in the Government — the supply of those dependent upon its humanity upon terms advantageous to both.

Your committee further report, that they consider supplying the Indian tribes with such articles of merchandise as are necessary to meet their pressing wants is not only an act of humanity, but sound national policy; and that every measure that would tend to civilize those savage tribes ought to be pursued by the United States. Your committee are induced to believe that nothing in the power of Government to do would have a more direct tendency to produce this desirable object than the establishment of schools at convenient and safe places amongst those tribes friendly to us. Your committee are aware that many plausible objections may be raised against the proposed measure, but we believe that all difficulties on this subject may be surmounted, and that the great object may be carried into practical effect. In the present state of our country one of two things seems to be necessary — either that these sons of the forest should be moralized or exterminated. Humanity would rejoice at the former, but shrink with horror from the latter. Put into the hands of their children the primer and the hoe, and they will naturally in time take hold of the plough; and as their minds become enlightened and expand, the Bible will be their book, and they will grow up in habits of morality and industry; leave the chase to those whose minds are less cultivated, and become useful members of society.

Great exertions have of late years been made by individuals and missionary societies in Europe and America. Schools have been established by those humane and benevolent societies in the Indies, among the Hindoos and Hottentots; and notwithstanding that superstition, bigotry, and ignorance, have shrouded those people in darkness for ages, thousands of them have already yielded to instruction.

The Government has no such difficulties to encounter; no Bibles or books to translate into foreign or other languages. Only establish some English schools; the experiment may be tried at a very small expense. The committee believe that increasing the number of trading posts, and establishing schools on or near our frontiers for the education of Indian children, would be attended with beneficial effects both to the United States and the Indian tribes, and the best possible means of securing the friendship of those nations in amity with us, and, in time, to bring the hostile tribes to see that their true interest lies in peace, and not in war. And therefore the committee report a bill.

## NAVAL DISCIPLINE.

Mr. JOHNSON, of Virginia, rose for the purpose of submitting to the House a proposition for amending the act of 1800, establishing rules for the government of the Navy. He begged leave to premise that he was a friend to the Navy; that he considered it a most important portion of the military defence of the country — and an

establishment which, of a size and force proportioned to our resources, and under wholesome and just regulations, he believed would always be found of the most essential service, as well in defensive as in offensive operations. But, his attention having been called by recent circumstances to the act to which he had referred, he was, on mature deliberation, fully convinced that the act ought to be amended. He had seen, he said, a distinction made by the provisions of that act between the superior and inferior officers of the Navy, which, in his opinion, would disgrace the most despotic Government in the world. He asked, if the superior officers of the Army and Navy had not sufficient distinction over the inferior officers, in the honors, and in the emoluments of their station, and in the rewards and gratitude of the public? When, forgetful of self-respect and of their duty to the public, they should commit crimes, why should a distinction still be made between them and their inferiors? In this country, he understood, that all men, committing crimes, equally violate the laws, and ought therefore to stand on the same footing. The only difference between them should be this: that stronger testimony would, in the opinion of the jury, be required to convict a man of a fair, high and honorable character, than one of a different description. Will you, said Mr. J., make the distinction that one officer shall be punished by death for an offence which, in another, is punishable by a simple reprimand? Look at the law for the government of the Navy. You will find that the inferior who commits an assault on a superior officer, forfeits his life! Why punish him more severely than for the like offence you would any other citizen of the United States? If any other citizen commits an assault, even on this officer, what is his punishment? If it be within a State, he is liable to an indictment, and to a fine and imprisonment, light in proportion to the lightness of his offence; he is also liable to an action for damages by the party injured, where the damages given are proportioned to the injury received. Why should so important a distinction in this respect be made between officers and citizen? As this law had been passed many years ago, and as perhaps the attention of many members had not been particularly directed to it, Mr. J. read, for their information the following clauses of it:

"ART. 14. No officer or private in the Navy shall disobey the lawful orders of his superior officer, or strike him, or draw, or offer to draw, or raise any weapon against him, while in the execution of the duties of his office, on pain of death, or such other punishment as a court martial shall inflict."

"ART. 20. No commanding officer shall, of his own authority, discharge a commissioned or warrant officer, nor strike nor punish him otherwise than by suspension or confinement, &c. Any commanding officer offending herein shall be punished at the discretion of a court martial."

I presume, said Mr. J., no question to be more clear, than that no court can impose the penalty of death, unless the power to punish by death be

expressly given. How incompatible is such a distinction, as is contained in these clauses, with the genius and spirit of our Government! What a libel on the principles of freedom and equality everywhere claimed in the United States! To what ridicule would it subject the inferior officer who should boast of the Declaration of Independence and the equality of rights in this country. I ask if the discrimination be just? If the offences committed by the superior officers be not the most likely to prove injurious to the service? the most calculated to produce demoralizing and bad effects by their example? I have no question that all evil and bad examples set by men high in office, and in the confidence of the country, descend on society with the accumulated force of gravity. Yet, whilst the same act, if performed by an obscure subaltern, would be ridiculed and condemned—if performed by some distinguished and popular favorite, it would, if not openly approved, at least find many apologists. The true policy of this Government is to afford equal protection to all; to deal out equal and exemplary punishments against all offenders. If any distinction be made, I would punish with most severity the man high in office, the popular idol, who should become forgetful of his duties and obligations to society. There is little danger that the rights of the superior officer in the Navy will be violated, his person attacked, or his feelings insulted, by those under his command. Experience, and recent occurrences, prove to us, that the subaltern officer is in a very different situation. I allude to a recent occurrence on the Mediterranean station. It has been published to the world, and, so far as I am informed, never contradicted, that, whilst on that station, a most distinguished naval officer, Captain Perry, did so far forget his own dignity as to order in his presence Captain Heath, of the Marine Corps, and first load him with the most vulgar and abusive epithets, and then proceed to inflict blows on his person—and immediately order him under an arrest. Can such conduct be tolerated in this country? I hope, I trust not. But Captain Perry has submitted to, and received the sentence of a court martial. I will not at present speak of the proceedings of that court. I am not possessed of the facts in a way to authorize me. If the present resolution should be adopted, it is my intention to call for the proceedings of that court. Sir, if Congress do not interpose its aid to prevent the recurrence of similar abuses in that department, I shall consider the sun of glory, which had risen with such unusual splendor on the Navy of the United States, as shorn forever of his beams. What man of honor, under existing circumstances, with the present law, would either enter your Navy himself, or permit his son to do so? I would as soon become the miserable slave, who licks the dust from the foot of despotism, as to enter, with the commission of a subaltern officer, the Navy of the United States, with the existing law, under the command of a proud, supercilious, and tyrannical commander. I believe that no acts of distinguished valor, and great importance to

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society, were ever performed except by those who possess strong passions. Passions are the winds which fan the sacred flame of human genius. When regulated and properly directed, they raise the owner of that rare gift to the most sublime heights of glory and renown. But, when irregular and unrestrained, they as frequently precipitate the possessor of the most brilliant genius into the gulf of ruin and destruction. It is the province and the duty of the Legislature, by salutary laws, to curb and restrain the wild, irregular, and pernicious sallies of human passion.

No man, said Mr. J., deserved more of his country for his gallantry than Captain Perry, the hero of Lake Erie; he who, during the late war, shed the brightest beam on this nation by which its course was lighted. Sir, said Mr. J., I should despise myself, if I possessed a heart so cold as not to participate in the general feelings of respect, gratitude, and admiration for the man who, by his prowess, achieved such unfading glory to the nation. But the most radiant beam which ever played about the head of the hero may be obscured, and the most blooming laurels may become tarnished by subsequent acts of tyranny and oppression. Who can behold, without the deepest regret, and without being ready to drop a tear for the frailty of poor human nature, the hero, surrounded by the trophies of military fame and renown, basking in the sunshine of popular favor, enjoying the respect and confidence of his own nation, and commanding the respect and applause of foreign nations—stooping from his elevation, forgetful of his own dignity and the principles of justice, bringing before him a subaltern officer—first bestowing on him vulgar and scurrilous abuse, and then violating his person by blows! Sir, the American flag, wherever it waves, whether it floats in the soft, voluptuous, and demoralizing air of the Mediterranean, or glitters in the northern blast, should afford protection, complete and ample protection, to every citizen who sails under it, from the common sailor who stands before the mast, to the proud commodore who commands the squadron.

I hope the resolution will be adopted. I am influenced by no other consideration than a regard to justice, and a just regard for the true and lasting prosperity of the navy. To all the parties, Captain Heath, Captain Perry, and Commodore Chauncey, I am a perfect stranger.

Mr. J. then handed to the Chair the following resolution:

*Resolved*, That the Committee for the Department of the Navy be instructed to inquire into the expediency of so amending the act entitled "An act for the better government of the Navy of the United States," approved April 23, 1800, which imposes the penalty of death on an officer or private in the Navy, who shall disobey the lawful orders of his superior officer, or strike him, or draw, or offer to draw, or raise any weapon against him, while in the execution of the duties of his office, as to make the punishment, in case of an officer, a forfeiture of his warrant or commission, and dismissal from the service; and in the case of a private, dismissal from the service; and so to amend the said act as to subject the superior officer who shall

strike, or draw, or offer to draw, or raise any weapon against his inferior officer, to a forfeiture of his commission, and dismissal from the service. And further, to provide that no officer dismissed from the service of the Navy of the United States, for either of the causes above enumerated, shall be reinstated by the President of the United States.

Mr. HARRISON, of Ohio, said he had always made it a rule to vote for inquiry into any subject, when proposed by a member. In consistency with that rule, he should vote for this motion; but he thought it proper to say, that the resolution contained principles which he could never sanction in the shape of law, and on which, therefore, he reserved to himself the right to decide when the question should in that shape come before the House.

Mr. SMITH, of Maryland, suggested the propriety of referring the subject generally to the committee for inquiry, without specifying any particular amendment to the laws for the government of the Navy.

Mr. FORSYTH, of Georgia, moved to amend the resolution by striking out the first part of it, so as to confine the inquiry to that part of the act referred to, which relates to the punishment of a superior officer for misconduct to an inferior. He could not think it necessary to inquire into the expediency of the remaining part of the proposition, since, to amend the laws as therein proposed, would have a tendency to destroy subordination; at the same time, however, he agreed with the gentleman from Virginia, as to the necessity of providing for the punishment of a superior officer who so far forgets the respect due to his country and to his station, as to treat his inferior with contumely and violence. With respect to the circumstances which had given rise to this motion, Mr. F. said he knew no more than any other member of this House. The case referred to, as he and others had seen it stated, appeared to be an extraordinary one; but, he said, he had always reserved to himself the right to form an opinion on such transactions when all the circumstances should be before him, and not on the *ex parte* statement of any of the parties concerned.

Mr. JOHNSON said he hoped the proposed amendment to his motion would not be adopted; for, if his whole proposition should be incorporated into the existing acts, it would not even produce an equality of punishment. Under the present law, for an assault of an inferior on a superior officer, courts martial were authorized to award the sentence of death; whilst, reversing the facts, the offender was liable to no other punishment than dismissal from the service. Why, he asked, this difference? Mr. J. said he had no doubt thousands of instances might be found in which the hearts of the inferior officers were actuated by as patriotic and honorable sentiments as that of the superior officer, who struts on the quarter-deck with his pair of epaulettes. Was there any reason why a distinction should be made, in our laws, between persons who commit crimes of the same grade? When on the land

our penal laws were so ameliorated as to punish even murder in the second degree, with imprisonment in a jail or penitentiary—(such was the case in Virginia, and in Pennsylvania, and in other States)—why punish an officer in your service by death for a mere assault? But it was said that an equalization of punishment for these offences would produce insubordination. He conceived not; for, even if the laws were amended as he proposed, the inferior officer committing the offence would be liable to be disgraced from the service. If a superior officer should commit a like offence, with the stronger inducements of patriotism and respect for the laws which belong to higher station and maturer age to refrain from it, no higher punishment would await him. Mr. J. repeated, that he trusted the amendment would not prevail.

Mr. PLEASANTS, of Virginia, said that before the amendment had been moved by Mr. FORSYTH, he was about to object to the resolution on the ground of the specific direction it contained to the committee as to the particular points to be inquired into. He thought the subject a proper one for inquiry, as respected the duty of the House and the interest of the nation. He would not give any opinion on the transactions adverted to as having occurred in the Mediterranean, because he had seen but one side of the question, to which indeed much respect was due, and the more so as no reply had been made to it. That statement, he very much regretted to say, did set the conduct of the officer who had stood so high in his esteem, in a point of view which he had regarded with pain. His objection to the inquiry was to its limited nature, when, it appeared to him, the whole law, or the several laws on the subject, should be open to the investigation of the committee. The committee would then inquire whether abuses had been committed, and direct their attention to the means of preventing them for the future. He should vote against the present amendment, and, if it was negatived, should propose an amendment for a general inquiry.

Mr. FORSYTH withdrew his motion, with the intimation that he should not have made it, had he been apprized that the chairman of the Naval Committee (Mr. PLEASANTS) meant to make any motion on the subject.

Mr. PLEASANTS then moved to amend the resolution before the House, so as to read as follows:

*“Resolved, That the Committee on Naval Affairs be instructed to inquire whether any, and, if any, what alterations are proper to be made in the several laws for the government of the Navy.”*

Mr. JOHNSON said, as his object was accomplished in drawing the attention of the House and of the committee to the particular point which he wished to see investigated, he would accept the proposed amendment as a modification of his own motion.

And, thus modified, the resolution was agreed to.

Mr. JOHNSON then submitted the following resolution, the adoption of which, he thought, followed as a necessary consequence of that just agreed to:

*“Resolved, That the Secretary of the Navy be directed to report to this House the proceedings of a certain court martial, ordered by Commodore Isaac Chauncey, on the Mediterranean station, for the trial of Captain Oliver H. Perry; also, the proceedings of a court martial, on the same station, ordered by the same officer, for the trial of Captain John Heath, of the Marine Corps.”*

The resolution was adopted without opposition.

#### COMMUTATION BILL.

On motion of Mr. JOHNSON, of Kentucky, the House proceeded to the consideration of the bill, now lying on the table, for the commutation of soldiers' bounty lands, with the amendments proposed thereto.

Mr. GARNETT, of Virginia, moved to postpone indefinitely the whole subject, believing that it had been so widely debated as to make further debate thereon not necessary to ascertain the sense of the House.

Mr. JOHNSON, of Kentucky, said he did not, after all that had been said, intend to enter into the debate; but contented himself with calling the yeas and nays on the question.

Mr. COBB, of Georgia, made some observations to show why he thought the bill ought not to be indefinitely postponed; because he believed that the passage of a bill on the principle of this, would be important not only to the interests of the improvident soldiers, whose case had been generally referred to in the former debate, but to those also of a different character, whose interest and wish it was not to settle the lands which they receive from the Government, preferring to remain in the Southern country. He regarded the measure also as one of policy; inasmuch as the depreciated rates at which the warrants passed into the hands of speculators, besides the United States losing the value of these lands, deteriorated also the value of other lands belonging to the Government. Enlarging on these views of the subject, Mr. C. expressed his opinion very decidedly to be, that some such act ought to pass, and in the shape proposed by Mr. ROBERTSON's amendment, to give a certain quantity of United States' stock in lieu of money, for the land warrants, the certificates of which, he thought, being of small amount, and bearing interest; would circulate freely from hand to hand, and would be more acceptable to the holders of the warrants than any price the speculators could give.

Mr. LINN.—After so much has been said, both by the friends and opposers of this bill, it may appear vanity in me, a young member in this House, to attempt to make any remarks, with a view to throw new light on this subject. I shall, however, beg the indulgence of the House for a few moments, while I offer some of the reasons that will govern me in giving my vote on this question.

The friends of this bill, sir, profess to have three objects in view: first, to prevent speculation, secondly, to benefit the soldier; and, thirdly, to benefit the Government itself. These are certainly great and desirable objects; and if we can obtain



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them, or even a part of them, it may excuse for the time we have spent in deliberating and debating upon the subject; and if I could be persuaded that any one of these objects would be obtained, I should hesitate before I gave it my negative.

But, sir, can these objects be obtained by the passage of this bill? Will it prevent speculation? No, sir, I apprehend it would rather encourage and facilitate it. What would the speculator, with the law in his hand, say to the poor soldier who wanted to get money for his land? He would naturally magnify his difficulties; he would tell him of the distance he must go, of the expense and trouble; he would say to him, your land is not worth more than \$100; that is the value your Government has put upon it: this you can have, but in order to get it you must encounter all this expense and trouble. Come, my good fellow, (he would say to him) if you want money, I will give you 50 or 60, or perhaps 70 dollars, in cash, and you will have no more trouble about it: and no doubt a bargain would be struck. And this would be the way the soldier would be cheated out of his land.

I think, sir, it is vain to attempt to stop speculation. Is it not daily practised, even in regard to our moneyed institutions? Scarcely a member in this House, sir, but has got paper in his pocket that would command the specie in the State he is from, that will not be received in this city but at a discount of from two to ten per cent. I merely mention this to show, that it is vain to expect by this bill to save the soldier from the hands of the speculator.

Sir, I do think the best and safest course is to let the soldier alone, and give him his land according to contract; and do not undervalue it so much as to induce him to almost give it away.

By this time, sir, the value of those lands begins to be known, and the soldier will be able to get more, even from the speculator himself, than you are about to offer.

When the Government agreed to give the soldier bounty land, they intended to guard him from his own imprudence as well as from the cunning arts of the speculator. Those guards ought to be continued; the soldier ought to have time to reflect, and to consult his friends, after he returns home, and after he becomes a free man, before he has power to sell and convey. I will venture to predict, sir, that if we take off those restraints, and enable the soldier to sell as soon as he is intitled to his bounty, more than half, yes I think I may say, nine-tenths of all who are willing to sell their land would do so before they leave the camp. Being far from home, and not knowing nor regarding the value of the land, the officers would be able to purchase it for a mere trifle; whereas, if they have time to mingle with their country friends, and receive their counsel and advice, they would be more likely to get something like its value.

But, sir, to take another view of this subject, and look a few years forward, supposing it should turn out that a very considerable proportion of our soldiers should commute their land to Gov-

ernment for money, what might we expect to hear in a very short time? Would they not make application to Government for remuneration? We might then be told, (and told with truth,) that we had gotten their land for \$100, and had sold it, at the least, for \$320; and that it would be an act of injustice to withhold the surplusage from the war-worn soldier who had fought your battles and bled in the defence of his country's dearest rights. Sir, I fear that there would be a long tail to this business, and scarcely an end to legislating upon it. Is it not better to stop before we get into difficulties, and leave the soldier in the enjoyment of that bounty his country has so generously given him, and not pass a law that will have the effect to undervalue it.

For these reasons, sir, and many more that might be urged, I am opposed to this bill. Believing no one of the objects intended will be obtained, believing that no good will be effected by the passage of this bill, and that much evil may be the result, I shall vote for the indefinite postponement.

Mr. LOWNDES opposed the postponement in a short speech. If an arrangement, he said, could be made in respect to the bounty lands, at once beneficial to the soldier and the Government, there could be no doubt of the expediency of its adoption. That the measure before the House would be beneficial to both, he had no doubt, for reasons which he stated at large. The soldier, he conceived, would be benefited by receiving for his land warrant a price higher than that now given, which he understood from various quarters was not more than from fifty to seventy-five dollars; whilst the Government would be benefitted by reclaiming into its possession, and withdrawing from the market a body of land, the extent of which might, for some years, reduce the value of the land of the United States in that market. The loss the United States might sustain from that competition, Mr. L. calculated might be, all circumstances considered, from sixty-two to seventy-five cents for each acre thrown into the market; and that price, therefore, it would be decidedly the interest of the Government to give for these lands. Having demonstrated that the measure, therefore, would equally benefit the United States and the soldier, he had no doubt of its expediency. At the same time he objected to the amendment last proposed, to give, in lieu of money, stock bearing an interest of six per cent.—because it would not be in effect equally beneficial to the soldier, and not as beneficial to the United States, whose money in the Treasury was not worth six per cent. per annum, (the interest it was proposed the certificates should bear,) which was demonstrated by the fact, that it could not obtain at par its own six per cent. stock.

Mr. ROBERTSON, of Louisiana, rose in opposition to the proposition for postponement. The benefit of this measure to the soldier could not be doubted; but, if it were, it was entirely at the option of the soldier to avail himself of the provisions of the bill or not—his rights, therefore, not being in the least affected by it. As to the

United States, Mr. R. contended, that the benefit of the measure would be, if possible, still greater, by bringing all that land again within its power, which, if thrown into market in competition with the United States, would set at naught all the calculations of the Secretary of the Treasury, or of the Committee of Ways and Means, on the product of the annual sales of the public lands. The lands included in the military survey were of greater value than was generally known, and infinitely more important to the United States than his friend (Mr. Lowndes) appeared to estimate them; as it was probable they would, in the course of a few years, sell for three or four dollars per acre, &c.; and he could not see why they should be valued at less than they would sell for. Thus an important advantage would accrue to the United States, and at the same time a striking benefit to the soldier, by the adoption of the measure it was now proposed to reject.

The question was at length taken on the proposition to postpone indefinitely; and the vote thereon stood—for the indefinite postponement 77, against it 77, as follows:

**YEAS**—Messrs. Adams, Allen of Massachusetts, Austin, Ball, Barbour of Virginia, Bateman, Beecher, Blount, Bryan, Butler, Clagett, Claiborne, Colston, Cruger, Cushman, Drake, Edwards, Ellicott, Folger, Forney, Garnett, Hall of Delaware, Hall of North Carolina, Hasbrouck, Herkimer, Hitchcock, Hogg, Holmes of Massachusetts, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Huntington, Ingham, Johnson of Virginia, Kinsey, Kirtland, Lawyer, Linn, Livermore, McLane, W. Maclay, W. P. Maclay, McCoy, Marchand, Middleton, Moore, Newton, Ogle, Orr, Pawling, Porter, Rhea, Savage, Sawyer, Scudder, Sergeant, Settle, Seybert, Shaw, Sherwood, Slocumb, J. S. Smith, Speed, Spencer, Storrs, Strother, Tarr, Tompkins, Tyler, Upham, Westerlo, Williams of Connecticut, Williams of New York, Williams of North Carolina, Wilkin, and Wilson of Pennsylvania.

**NAYS**—Messrs. Allen of Vermont, Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Bassett, Bayley, Bellinger, Bennett, Bloomfield, Boden, Burwell, Campbell, Cobb, Cook, Crafts, Crawford, Culbreth, Desha, Earle, Floyd, Forsyth, Gage, Hale, Harrison, Hendricks, Heister, Irving of New York, Johnson of Kentucky, Jones, Little, Lowndes, Marr, Mason of Massachusetts, Mercer, Merrill, Moseley, Murray, Jeremiah Nelson, H. Nelson, T. M. Nelson, New, Ogden, Owen, Parris, Parrott, Patterson, Peter, Pindall, Pleasants, Quarles, Reed, Rich, Richards, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Ruggles, Sampson, Silsbee, S. Smith, B. Smith, Alexander Smyth, Southard, Spangler, Strong, Stuart, Tallmadge, Taylor, Trimble, Tucker of Virginia, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, and Whitman.

The House being thus equally divided, the SPEAKER, declaring the pleasure it gave him to give his vote to preserve in existence a measure which he believed to be fraught with the greatest benefit to the soldier and to the nation, voted against the proposed indefinite postponement. So the motion was rejected.

The question then recurred on the amendment

moved by Mr. ROBERTSON, which proposed to substitute stock of a certain description in lieu of money, as the commutation of the soldiers' right to bounty lands.

Mr. JOHNSON, of Kentucky; Mr. SMYTH, of Virginia; Mr. BUTLER, of New Hampshire; and Mr. PETER, of Maryland, expressed their views on the subject, the two former at greater length, and the latter incidentally.

Mr. ROBERTSON's proposition was eventually negatived 76 to 65.

Mr. SMYTH, of Virginia, then moved to change the amount of commutation to be given for each 160 acres, by adding the word "sixty" to one hundred and sixty dollars.

Mr. SMYTH said he preferred the amendment of the honorable Speaker, (Mr. CLAY,) which proposed a commutation in money, to the amendment of the gentleman from Louisiana, (Mr. ROBERTSON,) which proposed a commutation in stock, if the former could be amended by raising the sum to be given to the soldier for his land to one dollar per acre. The merits of the soldiers had been already amply enforced. They deserved regard, and if we can benefit them, and at the same time greatly promote the public interest, it is expedient to do both. He would, he said, advocate the expediency of passing the bill in the form proposed by the honorable Speaker, with the amendment suggested, on the ground that it would promote the interest of the Illinois Territory, and the interest of the Treasury.

As to the interest of the Illinois Territory, Mr. S. said he would observe, that the accumulation of large quantities of land in the hands of a few persons he deemed a circumstance most pernicious to the prosperity of any country. He presumed that the gentlemen from Kentucky and Tennessee would be able to confirm that assertion. Where such an accumulation happens, said Mr. S., the lands are kept out of cultivation, and an enormous inequality of landed estate is produced. Experience has proven the superior wisdom of the laws of the United States, which establish the mode of selling the public lands. They are offered as they are wanted—a part at a time—and sold in small quantities, at such a price as prevents engrossing. The lands thus sold are purchased by men who settle on and improve them immediately. But should speculators obtain possession of large quantities of the lands, they will not cultivate them, neither will they sell them immediately; and should they lease the lands, the system of agriculture introduced will be wretched; improvements will be unknown; the people will be abject, and the State will have neither the population nor the resources to which it will be entitled, and which it would have obtained had the lands been wisely distributed.

The prosperity of the Illinois Territory requires that we should, if possible, recover the lands improvidently given away, and that we should adopt that mode of sale best calculated to fill the country with a numerous and industrious people. It is desirable to have a compact population from this place to the Mississippi. The Illinois Terri-

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ity is the only vacancy, and repurchasing the lands is the only mode likely to produce a dense population in a short time. Neither soldiers nor speculators are well fitted to make new settlements. Should the bill pass, instead of the speculator you will purchase from the soldier, and sell to the settler; but you will do it in a manner more fair and liberal; in short, in a manner dictated by a regard for the public welfare; whereas the speculator, as well in making his purchases as his sales, will be regulated in his conduct solely by the consideration of his own interests.

Let us see, said Mr. S., how the interests of the Treasury will be affected. You are selling land; you obtain from the sale a growing revenue; it doubles in about five years. In 1810 you sold lands to the amount of \$696,000, and in the first half of 1815 you sold lands to the amount of \$697,000. Land is the only article you have for sale; and, if you think proper, you may be without a competitor in selling unimproved lands. You desire to sell for the price of two dollars per acre, and to have the land settled and improved immediately, thereby to increase your resources. Will you then allow five millions of acres of the best land to fall into the hands of speculators at fifty cents per acre? If you do, whatever may be their course, the Treasury will be injured. If they sell, they will overstock the market which you supply, and they will have obtained money which you would have obtained. If they hold up the land they will keep it unproductive, and receive a profit from the rise of its value which you would have received. And then you will have competitors in the market in selling new lands, which will lessen your revenue from that source. Your interest may be compared to that of a manufacturer, who ought to sacrifice anything rather than his manufacture, the only article he has for sale. Should he pay for their services with the article which he manufactures his workman, equally improvident and necessitous as your soldiers, they will sell at a reduced price to dealers, who will undersell the manufacturer. Prudence will instruct him to keep up the article which he manufactures, to prevent its becoming too plenty in the market, and thus to command for it a ready sale at a good price. Such should be the policy of the Government as to new lands. Let us, therefore, preserve our monopoly of the sale of new lands, and use it for the public good. So very important is the object to be attained, that we would make a sacrifice to attain it, if thereby we can benefit the soldier and the Territory. But I conceive that, instead of making a sacrifice, we shall benefit the Treasury considerably.

The proposition contained in the amendment of the gentleman from Louisiana, to give the soldier six per cent. stock for his land bounty, I disapprove. Those soldiers who reside in the cities, might, perhaps, sell their stock without a loss, but those who reside remote from the cities would still be preyed upon by speculators, to whom they must and will sell their claims. It is better that we should create stock, if necessary, sell it for

the money, and pay the soldier. There is another feature in the amendment of the honorable Speaker, which recommends it to me—the claim of the soldier is made assignable. It was, I conceive, an error ever to have declared that the claim of the soldier should not be assignable; for if any property is made inalienable, or any security for money declared not to be assignable, the one or the other will unquestionably be of less value than if made alienable or assignable. The soldier *will* sell his claim; and every obstacle which shall be thrown in the way of the purchaser will have no other effect than to reduce the price which will be received by the soldier. The speculator will indemnify himself for the risk or loss in some cases, by offering a smaller price for the claim of the soldier. Mr. S. concluded by expressing a hope that the amendment of the gentleman from Louisiana would be rejected, and that, with the amendment which he had suggested, the bill would pass.

The question on Mr. SMYTH's motion was decided in the affirmative—ayes 76.

Further debate ensued on amendments to the details of the bill; in the consideration of which Messrs. TAYLOR, HOLMES, of Mass., BALDWIN, and EDWARDS took part.

Before the House got through the subject, a motion was made to adjourn, which prevailed.

#### FRIDAY, January 23.

Mr. WILLIAMS, from the Committee of Claims, made a detailed report on the petition of Major Loring Austin, which was read; when, Mr. W. reported a bill for the relief of the said Major Loring Austin, which was read twice, and committed to a Committee of the Whole.

Mr. HUGH NELSON, from the Committee on the Judiciary, reported a bill to supply vacancies under commissions of bankruptcy, which was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. POPE, from the committee appointed on the petition of the Legislative Council and House of Representatives of the Territory of Illinois, by leave of the House, reported a bill to enable the people of the Illinois Territory, to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States; which was read twice, and committed to a Committee of the Whole, on Monday next.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

*To the House of Representatives  
of the United States:*

In compliance with a resolution of the House of Representatives, of the 9th of December last, requesting information of what roads have been made, or are in progress, under the authority of the Executive of the United States, the States and Territories through which they pass or are intended to pass, the periods when they were ordered to be made, and how far they have been executed; I now communicate a report from the Secretary of the Treasury, and likewise, a report

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from the Secretary of War, containing the information which is required.

JAMES MONROE.

WASHINGTON, *January 23*, 1818.

The Message was read, and ordered to lie on the table.

On motion of Mr. INGHAM, a select committee was appointed to inquire what alterations are necessary to be made in the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out certain public roads, and for other purposes;" and Messrs. INGHAM, BRYAN, PARRIS, MOSELEY, TYLER, WHITMAN, and TALLMADGE, were appointed the said committee.

On motion of Mr. SMITH, of Maryland, the Committee on the Public Lands were instructed to inquire into the expediency of providing, by law, for the introduction into all patents, hereafter to be issued for lands sold or granted by the United States, of a reservation to the use of the United States of all copper mines, and of the expediency of authorizing the Secretary of the Treasury to lease any copper mines, the property of the United States, for a term not exceeding seven years.

On motion of Mr. HERRICK, the Committee on Roads and Canals were instructed to inquire into the expediency of providing, by law, for the appointment of commissioners to survey, lay out, and mark a road, from the west bank of the Ohio river, opposite the point where the Cumberland road strikes the same, through St. Clairsville to Columbus, from thence to the western line of the State of Ohio, in a direction to St. Louis, in the Missouri Territory.

On motion of Mr. ROBERTSON, of Louisiana, the Secretary of the Treasury was requested to lay before the House a statement of the salaries, and an estimate of the present and future emoluments of the respective registers and receivers of public moneys, at the different land offices of the United States, and also, the amount of the salaries and emoluments of the several surveyors general, and principal deputy surveyors.

On motion of Mr. FORSYTH, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of regulating, by law, the number of passengers to be brought into the United States by American or foreign vessels, according to the tonnage of the vessels.

On motion of Mr. COBB, the Committee on the Public Lands were instructed to inquire into the expediency of establishing into a separate land district all that part of the Alabama Territory which lies south of an east and west line, to be drawn from the boundary line dividing the State of Mississippi from said Territory, through Fort Williams, to the western boundary of Georgia; and also, into the expediency of appointing a surveyor of all public lands in the said district; of surveying, in the manner prescribed by law, such public lands, (to which the Indian title has been extinguished, and which are not already surveyed,) and of offering the same for sale as soon as possible.

Mr. TUCKER, of Virginia, from the committee on so much of the President's Message as relates to Roads, Canals, and Seminaries of Learning, to whom was committed the bill from the Senate, entitled "An act in addition to an act making appropriation for repairing certain roads therein described," reported the same without amendment; and the bill was committed to said the Committee of the whole House, to which was referred, on the 15th ultimo, the report of the committee on the subject of internal improvements.

The bill from the Senate, entitled "An act to allow the benefit of drawback on merchandise transported by land conveyance from Bristol to Boston, and from Boston to Bristol, in like manner as if the same were transported coastwise," was read the third time, and passed.

#### COMMUTATION BILL.

The House resumed the consideration of the bill to provide for the commutation of soldiers' bounty lands. An amendment of some importance, moved by Mr. TAYLOR, yesterday, was agreed to, yeas 78, nays 45. No other amendment having been offered—

The question was stated, on ordering the bill to be engrossed for a third reading.

Mr. HOPKINSON, succinctly delivered the reasons for his opinion against the passage of the bill.

Mr. ROBERTSON replied to Mr. HOPKINSON, and defended the bill.

Mr. HOPKINSON rejoined.

The question was then taken on the passage of the bill to a third reading, and determined in the negative—yeas 80, nays 82, as follows:

YEAS—Messrs. Abbott, Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Bellinger, Bennett, Bloomfield, Boden, Burwell, Cobb, Comstock, Cook, Crafts, Crawford, Culbreth, Desha, Earle, Ervin of South Carolina, Forsyth, Fuller, Gage, Hale, Harrison, Hasbrouck, Hendricks, Herrick, Heister, Hunter, Ingham, Irving of New York, Johnson of Kentucky, Jones, Kinsey, Little, Lowndes, Marchand, Mason of Massachusetts, Mercer, Merrill, Morton, Moseley, Murray, H. Nelson, T. M. Nelson, New, Ogden, Ogle, Owen, Parris, Parrott, Patterson, Peter, Pindall, Pleasants, Poindexter, Quarles, Reed, Rich, Richards, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Ruggles, Sampson, Silsbee, Ballard Smith, Alexander Smyth, Southard, Spangler, Tallmadge, Taylor, Trimble, Tucker of Virginia, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, and Whitman.

NAYS—Messrs. Adams, Allen of Massachusetts, Austin, Ball, Barbour of Virginia, Barber of Ohio, Bateman, Beecher, Blount, Boss, Bryan, Campbell, Claggett, Claiborne, Colston, Cruger, Cushman, Drake, Edwards, Ellicott, Forney, Garnett, Hall of Delaware, Hall of North Carolina, Herkimer, Hitchcock, Hogg, Holmes of Massachusetts, Holmes of Connecticut, Hopkinson, Hubbard, Huntington, Johnson of Virginia, Kirtland, Lawyer, Lewis, Linn, Livermore, McLane, W. Maclay, W. P. Maclay, McCoy, Marr, Mason of Rhode Island, Middleton, Moore, Mumford, Jeremiah Nelson, Nesbitt, Newton, Orr, Palmer, Pawling, Pitkin, Porter, Rhea, Savage, Schuyler, Scudder, Sergeant, Settle, Seybert, Shaw, Sherwood, Slocumb,

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Claims for Houses Burned in War.

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J. S. Smith, Speed, Spencer, Storrs, Strong, Strother, Tarr, Terry, Tompkins, Tyler, Upham, Westerlo, Williams of Connecticut, Williams of New York, Williams of North Carolina, Wilkin, and Wilson of Pennsylvania.

And so the bill was rejected.

#### CLAIMS FOR HOUSES BURNED IN WAR.

On motion of Mr. WILLIAMS, of North Carolina, the House resolved itself into a Committee of the Whole, on the report of the Committee of Claims on the claim of J. Pattison, and several other claims of a like nature, referred to the same committee.

[This claim is for a house, situated on the banks of the Patuxent, destroyed by the enemy during the late war, on account of previous occupation by provisions and by supplies issued therefrom to a detachment of militia in the service of the United States, and for other similar reasons, as the petitioner desires to establish by the testimony of two or three witnesses. The claim is one of those laid before the Commissioner of Claims, and by him, according to the provisions of the law of the last session, transmitted to the House of Representatives for their decision on the fact.]

After some conversation on the question of proceeding in the consideration of this subject on this or at a future day—

Mr. WILLIAMS, of North Carolina, delivered at considerable length, and with much perspicuity, the views of the committee on the general principles on which these cases rest, and also on the evidence in this particular case.

After a few observations from Mr. SMITH of Maryland, and Mr. FORSYTH, the Committee rose, and reported their concurrence, not only in the case of Mr. Pattison, but also in several other cases, which rest on the same principle, and on nearly the same description of evidence.

The question on concurrence with the Committee of Claims in rejecting the petition of Mr. Pattison, was agreed to.

The question being next proposed on the claim of John Ireland, for a house destroyed because occupied by a part of Commodore Barney's men, his rigging, &c., and the report recommending its rejection having been read—

A debate arose on the merits of the claim, and the amount of the testimony, in the course of which Messrs. SMITH of Maryland, HARRISON, REED, ROBERTSON of Louisiana, PETER, BAYLEY, and PALMER, opposed the report adverse to the claim, and Messrs. WILLIAMS and FORSYTH supported it.

At length, this and other reports were laid on the table, the hour growing unusually late, and the House adjourned to Monday.

MONDAY, January 26.

Two other members, to wit: from Massachusetts, JOHN WILSON, and from North Carolina, JAMES STEWART, appeared, produced their credentials, were qualified, and took their seats.

Mr. LOWNDES, from the Committee of Ways

and Means, made reports on the petitions of John Fields, John Barney, and of sundry importing merchants of Philadelphia; which reports were read, and the resolutions therein contained were concurred in by the House, as follows:

*Resolved*, That the prayer of the petitioners, respectively, ought not to be granted.

Mr. ROBERTSON, of Louisiana, from the Committee on the Public Lands, reported a bill to continue in force an act, entitled "An act relating to settlers on lands of the United States;" which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill respecting the organization of the Army of the United States, and for other purposes; which was read twice, and committed a Committee of the Whole.

Mr. JOHNSON also reported a bill for the relief of John Work, which was read twice, and committed to the Committee of the Whole last appointed.

Mr. SERGEANT, from the committee appointed on the petition of the American Bible Society, by leave of the House, reported (in part) a bill for the remission of duties upon stereotype plates, and upon bibles and testaments in foreign languages, imported by societies or associations, for the gratuitous distribution of the Holy Scriptures; which was read twice, and ordered to be engrossed, and read a third time to-morrow.

Mr. PARRIS, from the committee appointed on so much of the President's Message as relates to the public buildings, and the erection of new edifices for the accommodation of the Heads of Departments and the Attorney General, made a detailed report upon the subject, which was read; when Mr. P. reported a bill to provide for erecting additional buildings for the accommodation of the several Executive departments, which was read twice, and committed to a Committee of the Whole. The bill is as follows:

A Bill to provide for erecting additional buildings for the accommodation of the respective departments.

*Be it enacted, &c.*, That the Commissioner of the Public Buildings cause to be erected, under the direction of the President of the United States, two buildings suitable for offices for the Executive departments, to be placed north of the buildings at present occupied by those departments, and on a line parallel therewith; each of said buildings to contain forty rooms of convenient size.

[*Sec. 2.* Is merely a section making an appropriation.]

Mr. PINDALL submitted the following resolution, which was read, and ordered to lie on the table:

*Resolved*, That a docket of the bills, resolutions, and reports, depending in the Committee of the whole House, showing their order of precedence, be printed each week for the use of the members.

A motion was made by Mr. BLOUNT, that the House do reconsider their vote on Friday last, concurring in the report of the Committee of Claims, on the petition of Henry Williams. And on the question, Will the House reconsider the said vote? it passed in the affirmative. The

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report was then committed to a Committee of the Whole, to-morrow.

An engrossed bill, entitled "An act to supply vacancies under commissions of bankruptcy," was read the third time, and passed.

#### FUGITIVES FROM JUSTICE, &c.

The House resolved itself into a Committee of the Whole, on the bill to amend an act, entitled "An respecting fugitives from justice, and persons escaping from the service of their masters."

The bill is one of considerable importance to the holders of slave property particularly, as going to make that law efficacious, which is at present little better than nominal.

Much discussion took place on the details of this bill, which were explained and illustrated by Mr. PINDALL of Virginia, and by several other gentlemen. Some amendments were made to the bill, the discussion of which occupied the whole of the day's sitting, and was not concluded, when the Committee rose, and obtained leave to sit again.

TUESDAY, January 27.

Mr. WILLIAMS, of Connecticut, presented the petition of Elizabeth Eaton, the widow of the late General William Eaton, stating the services and sacrifices of her late husband in the public service, the poverty in which he left her and her children, the loss of two of her sons, one in the naval, and the other in the military service of the United States, and praying that some provision may be made for her maintenance, and for the support and education of the children of the said General Eaton.—Referred to the Committee on Military Affairs.

Mr. CLAIBORNE presented a remonstrance of Andrew Jackson, in behalf of himself and in right of his wife, and as agent for the heirs and representatives of Colonel John Donelson, deceased, stating, that by the act of the State of Georgia, of the 20th February, 1784, the said Donelson was appointed one of the commissioners for laying out a new county, in the Big Bend of the Tennessee river, for which services he became entitled to a large tract of land lying in said county, which they have been unable to obtain, for reasons set forth in the petition, and soliciting a conveyance thereof to him, and the rest of the heirs of said Donelson; which was referred to a select committee; and Mr. CLAIBORNE, Mr. COBB, Mr. HOGG, Mr. SETTLE, and Mr. CRAWFORD, were appointed the committee.

Mr. CLAIBORNE also presented a similar petition of George W. Sevier, for, and in behalf of himself, and the other heirs and representatives of the late General John Sevier, deceased; which was referred to the committee last appointed.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill for the relief of Benjamin Birdsail and William S. Foster; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. MASON, of Massachusetts, the claim of the State of Massachusetts for ex-

penditures to their militia for their services during the late war, together with the documents on the files of this House, were referred to a select committee, to consider and report thereon; and, Mr. MASON, of Massachusetts, Mr. WHITMAN, Mr. ORR, Mr. BURWELL, Mr. QUARLES, Mr. TALLMADGE, and Mr. MASON of Rhode Island, were appointed the committee.

On motion of Mr. BURWELL, the Secretary of War was directed to lay before this House, a statement of the claim of the State of Massachusetts, for the expenses of calling out the militia of that State, during the late war, and the reasons why those claims have not been settled by that Department.

#### REMISSION OF DUTIES.

The engrossed bill to remit the duties on stereotype plates and Bibles, in foreign languages, imported for the use of the American Bible Society, was read the third time, and the question stated, "Shall the bill pass?"

Mr. STROTHER, of Virginia, rose, not to urge the principal objections which he entertained to this bill, but to call the attention of the House to what he considered an imperfection in its provisions. The sum involved in this bill, he said, was of little importance; but the course now pursued might give rise to proceedings, hereafter, of more consequence; and he thought it best to resist the principle in the outset. Mr. S. referred to the absence of some provision to insure the privilege from abuse. The bill proposed to exempt from duty all the bibles, &c., which had been imported by certain societies, but what security was there that these books would be appropriated to the purposes contemplated in remitting the duties? He knew it would be said, the individuals concerned were men of honor and integrity; but this was not, in his mind, a sufficient reason for departing from the correct principles of legislation. Such a security was usual in other similar cases: and from the broad turnpike of legislation marked out by those who have gone before us, we ought to be scrupulous, said Mr. S., how we depart. He admitted that the object of the bill was to extend a favor to individuals engaged in noble purposes, to encircle the community with the mild spirit of Christianity, and correct passions hostile to happiness and good government—purposes, said Mr. S., which are dear to us all; but, in extending this benefit, even for these purposes, we should not violate a correct principle of legislation, by omitting to guard the privilege against possible abuse. The general principle involved in this bill, Mr. S. said, he would not disturb—that, he knew, was a hazardous thing. He was unwilling, in trivial matters, to awaken passions which should forever sleep. Yet, as he was aware that this bill might be the entering wedge to more serious objects, Mr. S. said he would reserve to himself, in voting on this occasion, the right of acting hereafter on similar propositions with perfect freedom. But, although not disposed to dispute the passage of the bill on its general principles, he should, without the in-



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roduction of the provision he had referred to, feel himself under the necessity of voting against it.

Mr. SERGEANT made a few remarks in explanation, and in reply to Mr. STROTHER's objections. The operation of the bill was confined to cases that had occurred, he said, and of course there was no necessity for the guards against frauds which had been suggested; and the amount of the importations was but small. A bill for a similar object had, on a former occasion, passed both Houses of Congress, which contained no such provision; it was not deemed necessary. Mr. S. urged the high character of the individuals composing the society, as obviating the necessity of the penalty suggested; and as such a provision had not heretofore been introduced into similar bills, it would be remarkable and invidious, he thought, to commence with this case, in which the individuals were so far above suspicion. It would, moreover, Mr. S. said, be difficult to form a law which would secure the privilege from possible abuse. But, he repeated, the Government had the best security in the character of the persons at the head of the institution for which the bill was intended; and he submitted it to the gentleman, whether it would not be unjust to make this the first instance of such a provision. This bill was spoken of, Mr. S. said, as an entering wedge to more important purposes. To this he would reply, that the remission of duties was not new, but had often been granted; and he did not therefore consider the remark applicable to this case. To the effects apprehended from the principle of this measure, &c., he was willing to give an opportunity for full and free discussion, without any reference to this bill, which he thought free from any such danger as had been expressed.

Mr. STROTHER rejoined, and remarked, that the consciousness that his inexperience in the business of legislation might probably lead him into error, had induced his silence on the subject, until the present moment; he had, until now, refrained from expressing his disapprobation of this measure. I am told, said Mr. S., that this is no entering wedge to more objectionable measures. It may be so—to me the subject is new; but my opinions are unshackled, and my apprehensions have urged me to make a modest inquiry into the expediency of passing the bill in its present shape. I know that fashion has placed its seal on this subject, and I know how strong that is. If, however, Mr. S. said, his recollection was not incorrect, a bill similar to this had once been negatived.

Constitutional scruples on this subject, Mr. S. said, he had not urged, and would not urge against the bill, only because he wished not to handle that sacred instrument on every occasion, and to make it too common. From that consideration he had determined to vote for the bill, though without committing himself upon any subsequent proposition of a similar character, provided the bill was made to conform to his ideas of correct legislation. When we legislate for the proudest heroes, or the best patriots of our country, they

who have borne the nation triumphantly through the greatest difficulties, said Mr. S., do we not annex the very same conditions and precautions as to the lowest individual; and wherefore make an exception in the present case? The invidious discrimination did not attach to these favored individuals. Even the gallant man, Mr. S. said, who has breasted the storm in the service of his country, received no such exemption, his *ipse dixit* was not received here as sufficient assurance; and Mr. S. was unwilling then to extend this distinction to any, how high soever their character. Do we not require the strongest evidence in support of the highest claims, and shall we not ask the same of these gentlemen? They are not exempt from human imperfections and frailties, and we are bound, said he, to extend to them the same principles of legislation as we do to others. Mr. S. repeated, he would not go fully into the expediency of the bill. He knew the perilous position he occupied in expressing his opinions on it, and the danger of opposing it, on its merits; but the path of duty he would not abandon, by permitting the bill to pass unopposed without the usual security that it would not be perverted to purposes not contemplated in its enactment.

Mr. SERGEANT said, the gentleman's recollection was, in one respect, erroneous. The bill to remit the duties on certain stereotype plates, imported by the Bible Society, was not negatived by the President; but by being sent late in the session, the President did not act on it, and not being returned to Congress, the bill did not become a law. Mr. S. repeated, that the provision contended for was not usual, and supported his opinion by some examples. Among those who were exempted from the duty of postage, for instance, Mr. S. mentioned several cases in which the law did not provide against an abuse of the privilege. This, he said, would be the first instance of such a provision. It would appear invidious. He believed it was unnecessary, and hoped it would not be inserted in the bill.

Mr. INGHAM said, the bill contained a general provision to remit all duties which had accrued on the importation of bibles, &c., for the Bible Society; but as it was more usual for these societies to order their books through some merchant than to their own order, the objection to providing against the abuse of the privilege was not so strong as had been urged. Mr. I. adverted to the circumstance that this bill had not gone through the usual course, as a reason perhaps why its details were now investigated. It had been ordered to be engrossed for a third reading without going through a Committee of the whole House, which was the customary course. If this bill involved a great Constitutional principle, it ought to have received the usual direction in its progress. Certain it was, Mr. I. said, that the President did suffer a similar bill to expire by retaining it until the adjournment of Congress. It was no less certain that the object of this bill was to grant money from the public Treasury for the benefit of an association which may be fairly denomi-

nated a religious establishment, and the Constitution expressly prohibited Congress from legislating on the subject of any religious establishment. And is it come to this? Are we so much in awe that we must tremble when we approach this subject, and dare not resist a measure of this character? The question had been justly called a delicate one, but when looking to the Constitution, and exercising his honest convictions, he should not feel its delicacy. As this bill had passed through without the ordinary forms, Mr. I. moved that it now be laid on the table, with the view, if it should afterwards be called up, to move for its commitment.

Mr. SERGEANT said, if this course had been proposed when the bill was first taken up, he should not have objected; but if gentlemen were not in their places when the bill had been considered, it was unfair now to complain of the course which had been taken. He did not know that it involved any Constitutional question, and he was sorry to see any obstacle now thrown in its way, &c.

The question on laying the bill on the table was then decided in the affirmative—ayes 84, noes 62.

The House then proceeded to the consideration of the bill respecting fugitive slaves, &c., the consideration of which occupied the remainder of the day; and the Committee rose before the subject was completed.

### WEDNESDAY, January 28.

Mr. ROBERTSON, of Louisiana, presented the petition of Thomas Shields, a purser in the Navy of the United States, on the New Orleans station, stating that with an inferior force he captured, during the late war with Great Britain, a vessel under the British flag, the cargo of which has been condemned as lawful prize of war, one half of the proceeds of which have been awarded to the United States, and praying that, inasmuch as his force was greatly inferior to that of the vessel he captured, that part of the proceeds which has been paid over to the United States, may be granted to him and his associates.

*Ordered*, That the said petition be referred to the Committee of Ways and Means.

Mr. JONES presented a petition of John W. Simonton, John Catron, Richard Tankersly, and Isaac Thomas, praying for a grant of two, three, or four townships of public land, on the Alabama river, or its tributary waters, at two dollars an acre, payable in ten years, in five equal payments, on which they propose to settle a colony of German and Swiss immigrants.

On motion of Mr. SCOTT,

*Ordered*, That the petition of Pierre Baribau, presented on the 24th of January, 1817, be referred to the Committee on Private Land Claims.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of Israel Smith, which was read; when, Mr.

W. reported a bill for the relief of Israel Smith; which was read twice, and ordered to be engrossed, and read a third time to-morrow.

Mr. HENDRICKS presented a petition of Bernhard Steiner, of Switzerland, in Europe, praying that he may be permitted to purchase a township of public land, in the State of Indiana, for which he will pay one-eighth of the purchase money immediately, one-eighth in two years, and the balance at the expiration of ten years, upon which he proposes to settle a colony of Swiss immigrants.

*Ordered*, That the said petitions be referred to the Committee on the Public Lands.

Mr. HERRICK, from the Committee on Private Land Claims, reported a bill for the relief of Josiah Bullock; which was read twice, and committed to a Committee of the Whole.

Mr. NELSON, from the Committee on the Judiciary, reported a bill, providing an additional compensation to the circuit judge of the sixth circuit of the United States; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. POINDEXTER, the Committee on Commerce and Manufactures were instructed to inquire into the expediency of establishing a port of entry and delivery, at the town of Shilborsborough, on the bay of St. Louis, in the State of Mississippi.

On motion of Mr. STORRS, the Secretary of the War Department was requested to communicate to this House, a statement of the cases in which counsel has been employed to assist the judge advocates of the Army of the United States, since the first day of August, 1812; the names of the counsel so employed, the compensations paid to them, respectively, and the fund out of which the same have been paid; and the expenses of the several courts martial which have been held since that time, for the trial of officers of the Army.

A motion was made by Mr. RICH, that the Committee of the Whole, to which is committed the bill to amend the act, entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters," be discharged from the further consideration thereof, and that it be committed to the Committee of the Whole to which is committed the bill, supplementary to the act, to prohibit the importation of slaves within the jurisdiction of the United States, passed the 2d of March, 1807; and the question being taken thereon, it passed in the negative.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri," with amendments; and they have passed bills of the following titles: An act directing the manner of appointing Indian agents, and continuing the "Act for establishing trading-houses with the Indian tribes;" an act concerning the district of Brunswick, in the State of Georgia; an act to incorporate the Mechanic Relief Society of

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Alexandria; and, an act for the relief of Isaac Briggs, in which amendments and bills, they ask the concurrence of this House.

#### FUGITIVES FROM JUSTICE, &c.

The order of the day on the bill "respecting fugitives from justice, and persons escaping from the service of their masters," having been announced—

Mr. RICH moved to commit the bill to a different committee, with a view of considering the propriety of certain amendments. After some little discussion, the motion was negatived.

The House then resolved itself into a Committee of the Whole on the bill.

The question was on an amendment proposed by Mr. RICH to the bill, which has for its object the preventing the transportation, in any manner, of any negro, mulatto, or person of color, without having previously carried the same before some judge or justice of a court of record, and giving sufficient proof of their being slaves, and the property of the person by whose authority they are so removed, under the penalty of a sum not exceeding ten thousand dollars.

This amendment Mr. STORRS had proposed to amend, by substituting in lieu thereof, a new section, in the following words:

"That, if any person without colorable claim, shall knowingly and wilfully procure or cause to be procured any such certificate or warrant, [of his property in any particular individual] with intention, under color or pretence thereof, or the provisions of this act, to arrest, detain, or transport, or cause to be arrested, detained, or transported, any person whatsoever, not held to labor or service as aforesaid, he or she, on conviction thereof, shall suffer imprisonment, not exceeding fifteen years, or fined not exceeding five thousand dollars, or both, in the discretion of the court before whom such conviction shall be had."

Messrs. STORRS and PINDALL advocated the amendment to the amendment, on the ground of the difficulty of the subject, the very magnitude of which was a sufficient reason, it was said, why it should not be appended to this bill, but ought to be made the subject of a separate act.

Mr. RICH vindicated his own amendment, on the ground of the enormity of the crime of kidnapping, repeated cases of which had occurred, and which appeared to him to require the interposition of the Legislature.

The amendment to the amendment was agreed to, and then incorporated in the bill, by a considerable majority.

Mr. CLAGETT said, he should make but few remarks upon this occasion. Since this bill has been under discussion, said he, I have given it due attention, but have not been able to perceive a satisfactory reason for its passage; nor am I without surprise, that it should have so many advocates. The law of 1793, in pursuance of the 2d sect. 4th art. of the Constitution, enacts, "that when a person, held to labor or service in any of the United States, or in either of the Territories, under the laws thereof, shall escape into any other of the said States or Territories, the

person to whom such labor or service may be due, his agent or attorney, shall have power to seize or arrest such fugitive, and take him or her before any judge of a circuit or district court of the United States, residing or being within the State, or before any magistrate of a county, city, or town corporate, wherein such seizure or arrest shall have been made, and upon proof, to the satisfaction of such judge or magistrate, that the person so seized, doth, under the laws of the State from whence he fled, owe service or labor to the person claiming him, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, which shall be a sufficient warrant for removing such fugitive to the State from whence he fled." And, by the same law any person who shall obstruct such claimant in seizing a fugitive, or rescue him after seizure, or harbor or conceal him, knowing him to be a fugitive, shall incur a penalty of five hundred dollars to the use of such claimant, and be also liable to the party for all other damages by him sustained. Sir, however I may differ in opinion from some honorable gentlemen upon the question of right to this service, abstractly considered, I do not hesitate to say, that the clause of the Constitution, under which we legislate, is imperative—that it is a part of a solemn compact between the several States in the Union, and we are bound to carry it into complete effect. But does not the law cited, secure to the claimants all the rights which the Constitution guaranteed to them? Certainly it does. By the law now in force, the claimant may, in the first instance, without a warrant, arrest the fugitive, and carry him before a tribunal for examination. This is a great latitude, and there is danger of an abuse of this power to the injury of the free citizen, who may never appear before such tribunal! If any amendment of this law be necessary, it is to restrain the claimant from an abuse of power; but no such amendment has been proposed. The courts of the United States are the only proper tribunals to take cognizance of the subject; and magistrates of a State, as such, are not bound by your law. Why, then, make this amendment?

But, sir, while we are scrupulously guarding from encroachments one clause of our Constitution, let us be cautious lest we infract another, equally important. It is not only my duty, but my sincere desire, to preserve every part of this sacred instrument, upon which our national happiness depends. And now, sir, let me solicit your attention to the 9th sect. of the 1st art. of this Constitution, in these words: "The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it." Will not this bill, if it pass into a law, virtually suspend the writ of habeas corpus—at least its effect? In my opinion it will: for this bill provides, if such writ issue, and it shall appear, upon its return, that the supposed fugitive was arrested under this law, (and it may be by order of a justice of the peace) such fugitive shall be remanded into the custody of the officer who arrested him.

For these reasons, sir, I shall give a negative vote to the bill on your table.

Mr. PINDALL said, the bill professes to impose a duty, to be performed by stated judges, in relation to the recovery of runaway slaves. The enactment of the bill does not, it is said, imply what the opinion of the House, or the friends of the bill, may be on the question of the power of Congress to impose any other duties on the State courts.

A gentleman mentioned, during the debate, as an objection to the bill, that it imposed duties upon State judges and officers, to which Mr. PINDALL (the chairman of the committee that reported the bill) replied, that those who believed this subject involved the broad question, whether Congress had the right in all cases to require the execution of its laws through the instrumentality of State officers would, if so disposed, be able to say much in favor of the power. Indeed, some might contend, with plausibility, that the question ought to be considered as settled; or an argument the same or similar to that derived from what has been called *contemporaneous practice*, might be deduced from the earliest acts of this Government. Congress had repeatedly passed laws depending for their execution on State courts. This consideration might, in the estimation of some gentlemen, weigh against the objection of the member from Massachusetts, but he (Mr. P.) did not rely upon it.

He said it was possible that the framers of the Constitution did not wish that the right of Congress to impose duties upon State officers should be coextensive with the powers of legislation granted by that instrument, and yet may have intended that such a power should exist in some cases, or under some circumstances. Although he would not intermeddle with the abstract inquiry, whether Congress could, in all its legislative province, impose upon a judicial or ministerial State officer an obligation to execute the laws of the Union, he would insist on his right to exercise the power in the instance contemplated by the bill. The clause of the Constitution on which the bill rested, declared that no person, held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on the claim of the party to whom such service or labor may be due. This clause, he said, was a regulation between the respective States, conferring rights on some States and obligations on others; but the right, when exerted for the benefit of the slaveholder, manifests itself by means of the laws of his State; for the clause just quoted speaks of persons held to labor in one State, under the laws thereof. The laws of the State are made known, interpreted, and expounded by the official acts and decisions of State judges and officers.

Again: the slave, taking refuge in another State, shall be delivered up. This duty of delivering up the slave is not imposed on private men or individuals, as in a state of nature, or it might never be performed; besides, private men are not

necessarily supposed to have the slave in their possession or power. The duty of delivering up the slave is imposed on the State, and the State, as all other civil or social political powers, necessarily, or at least usually, acts by the intervention of its officers.

It being thus shown, in regard to this clause of the Constitution, that a right and corresponding obligation are established between different States, which, by ordinary interpretation, depend for their development and exercise upon the proper officers of each State; and it being admitted on all sides that Congress has the power to regulate the due exercise of that right, and enforce the performance of that obligation, it follows that Congress can make a law to regulate the conduct of these State officers in the performance of their duty.

Further debate took place on the bill, and on an amendment proposed by Mr. BALDWIN.

Mr. FULLER then, after an ingenious speech of considerable length, moved to strike out the first section of the bill, with a view to destroy it entirely, on the ground that it transcended the Constitutional provisions on the subject. He also took exceptions to various features of the bill.

Mr. STRONG, in a more decided manner, expressed his opposition to the bill, on the ground that the act already in existence on that subject had gone full far enough in carrying into execution the Constitutional provision on that subject; which he regarded as a compact, the mode of executing which the non-slaveholding States had reserved, and were at liberty to judge of when proposed to them, &c.

Mr. COBB replied to the two gentlemen from Massachusetts, vindicating the rights of the holders of that description of property, as secured by the Constitution, as inalienable, and as inviolable on any pretext by those who were averse to the toleration of slavery, &c.

Mr. STRONG rejoined.

Mr. HOPKINSON stated certain objections to the form of this bill, under which he thought it possible that freemen might be apprehended as slaves, without the necessary means of redress.

Mr. HOLMES, of Massachusetts, made some remarks, of a nature conciliatory to the prejudices existing on both sides of this question; and intimated that, though he was not in favor of all the provisions of this bill, he should vote against striking out the first section, because he thought that the bill might be so moulded as to be unobjectionable to any.

Mr. CLAY (Speaker) then engaged in the debate, being called up by the peculiar interest which the State of which he is a Representative has in the passage of the bill. The nature of slave property, its evils, and the rights of its possessors, were illustrated with great force, and the necessity for the passage of an act of this sort sustained by many arguments, in a speech of considerable length.

Mr. BALDWIN rose on the question of construction which had been given by some gentlemen to the Constitutional provision; which, he contend-

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ed, conferred on Congress full power to legislate on the subject so as to give the strongest security to the holders of slave property.

The motion to strike out the first section was negatived by a large majority.

Some further amendments having been made to the bill, the Committee rose, and reported the bill as amended, and the House adjourned.

THURSDAY, January 29.

Mr. SERGEANT presented a petition of the Pennsylvania Society for promoting the abolition of slavery, praying that such amendments may be made to the act of 1793, entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters," as will more effectually secure the rights of people of color, who are free, or entitled to freedom; which was read and ordered to lie on the table.

A motion was made by Mr. McCox, that the House do reconsider their vote of yesterday, concurring in the report of the Committee of Claims, on the petition of Zachariah McGirt; and the question being taken thereon, it passed in the affirmative; and the report and petition were recommitted to the Committee of Claims, with instructions to examine the validity of the evidence upon which the claim is founded.

An engrossed bill, entitled "An act for the relief of Israel Smith," was read the third time, and passed.

The amendments proposed by the Senate to the bill, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri," were read and referred to the Committee on the Public Lands.

The bill from the Senate, entitled "An act, directing the manner of appointing Indian agents, and continuing the 'Act for establishing trading-houses with the Indian tribes,'" was read twice, and referred to the committee appointed on so much of the President's Message as relates to Indian Affairs.

The bill from the Senate, entitled "An act concerning the district of Brunswick, in the State of Georgia," was read twice, and referred to the Committee of Commerce and Manufactures.

The bill from the Senate, entitled "An act to incorporate the Mechanic Relief Society of Alexandria," was read twice, and referred to the Committee on the District of Columbia.

The bill from the Senate, entitled "An act for the relief of Isaac Briggs," was read twice, and referred to the Committee on the Public Lands.

#### FUGITIVES FROM JUSTICE, &c.

The House having resumed the consideration of the bill to amend the act entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters,"—

Mr. RICH moved to recommit the bill to the committee to whom has been referred the memorial of the annual meeting of the Society of Friends at Baltimore, with a view of so amend-

ing the bill as to guard more effectually the rights of free persons of color. This motion he enforced by urging the oppressions to which these people were now subjected, and the necessity of some regulation on the subject, which he thought might be very properly connected with this bill.

Mr. PINDALL objected to the recommitment, especially as the House had already once decided against doing so on the same ground of the want of necessary connexion of the proposed amendment with the bill.

Mr. SMITH, of Maryland, suggested that the subject of the protection of free people of color, being of a distinct nature from this, was already before a committee who would without doubt make a special report on the subject. Under this impression, Mr. S. said he should vote against the motion for recommitment.

Mr. RHEA was also opposed to the recommitment, and made some general remarks respecting slavery, in the course of which he intimated his opinion that the Government had shown its aversion to slavery in every manner in its power, and could not do more, unless by an arbitrary abolition of slavery, which no one would propose. If slavery must exist, as guaranteed by the Constitution, he was surprised at the opposition made to ridding it of some of its evils, by preventing escapes, &c.

Mr. LIVERMORE said, although not favorable to the bill, he should vote against a recommitment, because he wished that those who were friendly to the bill might have the opportunity, by amendment, to make it as perfect as possible.

Mr. W. P. MACLAY was in favor of recommitment. Admitting the force of the Constitutional provision, which secured the right of proprietors to reclaim their runaway slaves, he was not for going further than necessary; and appeared moreover to be highly impressed with the importance of connecting with this bill a provision to prevent the apprehension of free persons of color, under pretence of their being slaves.

The question on recommitment of the bill was decided in the negative, without a division.

Further debate took place on the question of concurrence in some of the amendments made to the bill in the Committee of the Whole, and on several other amendments proposed, in the course of which Messrs. PINDALL, SERGEANT, SPENCER, BALDWIN, RICH, TERRY, BEECHER, and others, actively exerted themselves.

Mr. SERGEANT made a proposition, having in view to materially change the nature of the bill by making judges of the State in which the apprentices, slaves, &c., are seized, the tribunal to decide the fact of slavery, instead of the judges of the States whence the fugitives have escaped. This was negatived by a large majority.

Mr. RICH made several successive attempts to procure amendments to the bill, relaxing some of its provisions, which were successively negatived.

The debate, though not very interesting, was zealously persisted in to a late hour.

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Case of R. W. Meade.

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The question being on ordering the bill to a third reading—

A motion was made by Mr. W. P. MACLAY to postpone the bill to Monday next; which motion was negatived—79 to 62.

After two or three ineffectual motions to procure an adjournment, and to further amend the bill—

The question was at length taken, "Shall the bill be engrossed and read a third time?" and decided, by yeas and nays: For the bill 86, against it 55, as follows:

YEAS—Messrs. Abbott, Anderson of Kentucky, Austin, Baldwin, Ball, Bassett, Bayley, Beecher, Bellinger, Bloomfield, Blount, Bryan, Burwell, Campbell, Claiborne, Cobb, Cook, Crawford, Cruger, Desha, Drake, Earle, Edwards, Ellicott, Ervin of South Carolina, Floyd, Forney, Forsyth, Garnett, Hall of Delaware, Hall of North Carolina, Harrison, Hogg, Holmes of Massachusetts, Hubbard, Johnson of Virginia, Johnson of Kentucky, Lewis, Linn, Little, Lowndes, McLane, McCoy, Marchand, Marr, Mason of Massachusetts, Middleton, Moore, Mumford, H. Nelson, Nesbitt, Newton, Owen, Palmer, Patterson, Peter, Pindall, Pleasants, Poindexter, Porter, Quarles, Reed, Rhea, Ringgold, Robertson of Kentucky, Rugles, Sampson, Sawyer, Settle, Slocumb, S. Smith, Ballard Smith, Alexander Smyth, Southard, Speed, Spencer, Stewart of North Carolina, Storrs, Strother, Stuart, Tompkins, Trimble, Tucker of South Carolina, Walker of North Carolina, Williams of North Carolina, and Wilson of Massachusetts.

NAYS—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Bateman, Bennett, Boss, Butler, Clagett, Crafts, Culbreth, Folger, Fuller, Hale, Hendricks, Horrick, Hitchcock, Holmes of Connecticut, Hopkinson, Hunter, Huntington, Ingham, Irving of New York, Kinsey, Lawyer, Livermore, W. Maclay, W. P. Maclay, Merrill, Morton, Murray, Jeremiah Nelson, Orr, Parrott, Pawling, Rice, Rich, Richards, Savage, Scudder, Sergeant, Seybert, Sherwood, Silsbee, Spangler, Strong, Tarr, Taylor, Terry, Upham, Wallace, Wendover, Williams of Connecticut, Williams of New York, Wilkin, and Wilson of Pennsylvania.

The bill was then ordered to be read the third time to-morrow.

FRIDAY, January 30.

The SPEAKER laid before the House a letter from Richard Bland Lee, Commissioner of Claims, communicating "reports of the facts" in the cases of John Anderson, Jean Baptiste Jerome, Gabriel Godfroy, and Jean Baptiste Beaugroud, Jean Baptiste Couture, George McDougal, and Hubert La Croix, all of the Territory of Michigan, with the evidence accompanying each; which was referred to the Committee of Claims.

On motion of Mr. PALMER, the report of the Secretary of the Treasury on the petition of Samuel Buell, together with the petition, was referred to the Committee of Ways and Means.

Mr. OGLE, from the committee appointed on the petition of General Arthur St. Clair, reported a bill for the relief of Major General Arthur St. Clair; which was read twice, and committed to a Committee of the Whole to-day.

The SPEAKER laid before the House a letter from the Secretary of the Navy, transmitting copies of the proceedings of the court martial for the trial of Captain Oliver Hazard Perry, and also of the proceedings of the court martial for the trial of Captain John Heath; which was read and ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act making appropriations for the payment of the arrearages which have been incurred for the support of the Military Establishment previous to the first of January, 1817," with an amendment in which they ask the concurrence of this House.

On motion of Mr. SMITH, of Maryland, Resolved, That the President of the United States be requested to cause to be laid before the House such information as he may possess, (and which may be communicated without injury to the public interest,) relative to the claims of the merchants of the United States for their property seized and confiscated under the authority of the King of Naples.

#### CASE OF R. W. MEADE.

A Message yesterday received from the PRESIDENT OF THE UNITED STATES was read, as follows:

*To the House of Representatives of the United States:*

In compliance with a resolution of the House of Representatives, of the 22d of December last, requesting information relative to the imprisonment and detention in confinement of Richard W. Meade, a citizen of the United States, I now transmit to the House a report from the Secretary of State, containing the information requested.

JAMES MONROE.

WASHINGTON, Jan. 29, 1818.

#### DEPARTMENT OF STATE.

The Secretary of State, to whom was referred the resolution of the House of Representatives of the 23d of December last, requesting the President to cause to be laid before the House any information he may be able to communicate, relative to the imprisonment and detention in confinement of Richard W. Meade, a citizen of the United States, has the honor of submitting to the President the accompanying papers received at the department on that subject, with a letter addressed to the Minister of Spain, residing here since the resolution of the House, and the answer received from him.

JOHN QUINCY ADAMS.

*Mr. Adams to Mr. Onis.*

DEPARTMENT OF STATE,  
Washington, Jan. 26, 1817.

SIR: I am directed by the President of the United States to invite your immediate attention, and to urge that of your Government, to the case of Richard W. Meade, a citizen of the United States, who has been confined since the 2d of May, 1816, in the prison Santa Catalina, at Cadiz.

It has been repeatedly represented to your Government by the Minister of the United States at Madrid, that the imprisonment of this person was under a sen-



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tence of a tribunal at Cadiz, condemning him to pay a second time a sum of money, which, by virtue of a prior decree of the same tribunal, he had already paid into the Royal Treasury. This fact has never been denied or contested by your Government. It has been proved to them by the attestations and certificates of their own officers.

It was to have been presumed that, upon the first moment that such a fact was authentically presented to your Government, an order would instantly have issued from it for the discharge of Mr. Meade from his imprisonment. The President regrets that after so many and such urgent representations in his behalf by the Minister of the United States at Madrid it should yet be necessary to address this call upon the most common principle of justice to you. I am instructed by him to say, that in renewing this demand for Mr. Meade's immediate liberation, he confidently expects it will not be in vain.

I pray you, sir, to accept the assurance of my very distinguished consideration.

JOHN Q. ADAMS.

*Mr. Onis to Mr. Adams.*

WASHINGTON, Dec. 29, 1817.

SIR: I received your note dated the 26th of this month, in which, by order of the President, you communicate to me what appears to have taken place in Spain, in the case of a law suit against Richard W. Meade, a citizen of these States, in order that I should make the necessary representations on this subject to the King my master, and solicit his release from confinement.

In compliance with the wishes of the President, and yours, sir, I shall, with great pleasure, make this request in favor of Mr. Meade, although I am not informed of the details of the suit instituted against him, nor of those which have produced his confinement.

Considering in the just intentions of the King, and his high consideration for the United States, I must hope that His Majesty will attend efficaciously to this request, and use his authority in having justice promptly done to Mr. Meade, that the laws may be observed with the strictest impartiality, and no motive or pretext left to doubt of the immaculate (acendrada) purity which has ever been acknowledged as the particular attribute of the Spanish Magistracy. I renew my respects to you, sir, and pray God to preserve you many years.

LUIS DE ONIS.

## REMISSION OF DUTIES.

Mr. LOWNDES, from the Committee of Ways and Means, made a report on the petition of the pew-holders of the Monumental Church, in Richmond, unfavorable thereto; which was read.

[This petition asks for the remission of the amount of duties which have become payable to the Treasury on the importation of an *organ* for the said church from abroad.]

Mr. TYLER moved to reverse the report of the committee.

This motion gave rise to a short debate of considerable interest. The following sketch presents a mere summary.

Mr. TYLER supported his motion with eloquence and feeling. He depicted the nature of the calamity which the Monumental Church was erected to commemorate, and gave a just tribute

to the merits of those who fell a sacrifice to it, and the feelings of their friends who survived it. He then referred to various cases in which Congress had, for the encouragement of the progress of philosophy and of the fine arts, remitted duties on importations. Was it not as reasonable, he asked, to encourage a respect to the fine feelings of our nature, to which the erection of the church was owing, as to encourage the progress of the fine arts? In reference to the remission of the duties on the importation of the Tripoline monument, would Congress, he asked, contribute to give perpetuity to the memory of our naval heroes and not to that of a great national calamity; when, too, granting the prayer of the petition, Congress would pour oil into the wounds which time had not healed? Mr. T. adverted to the act of the present session, remitting the duties on the picture imported for the Pennsylvania Hospital. Our case, said he, I consider much more strong. By the exhibition of that picture, a considerable revenue will accrue to the hospital, from which, in a short time, the duties might have been defrayed. As to the present case, if the duty should be remitted, whilst the Treasury would not feel the sum taken from it, Congress would afford to the citizens of Richmond, who have wept tears of blood over this calamity, the best evidence in our power that we sympathize with them.

Mr. SMITH, of Maryland, said, the committee had been of opinion, on examining this case, that such an organ might have been procured in the United States, as there were several manufactories in the United States, from one of which a very good one had been procured for Baltimore. If the indulgence now proposed were extended to the church at Richmond, it would be reasonably expected at the hands of Congress by other religious societies. There was nothing in this case to take it out of the general rule, being well assured the proprietors of the pews in that church were well able to pay the duty.

Mr. TYLER made a few remarks in reply to Mr. SMITH, principally by way of protesting against refusing this small boon, on the ground of the encouragement of American manufactures.

Mr. HOPKINSON stated, as what he understood to be the general principle of the revenue laws, that duties should be collected from objects imported for the purposes of trade, and on which the importers calculate on a profit. He thought it a very different case, when, for the benefit of public institutions, or for religious purposes, or for the encouragement of the arts, any society should import articles of foreign fabric at its own expense and for its own use. Strongly impressed by the considerations urged by Mr. TYLER, he was in favor of remitting this duty.

Mr. POINDEXTER was opposed to granting the petition, and adverted to the petition of the American Bible Society for the remission of duties on certain stereotype plates imported, which he considered precisely similar to this, and it had been laid on the table. Mr. P. also referred to the case of the Baptist church, in the present

State of Mississippi, which, some years ago, petitioned for the pre-emption right to a certain tract of land whereon to erect a church. An act passed both Houses of Congress, granting them this privilege, which was rejected by the President, on the ground that it gave an exclusive privilege to a religious society. A religious society in Richmond, it appeared, had erected a church, and thought proper to send abroad for an organ to ornament it, on which a duty had become payable. By remitting that duty, Mr. P. said, Congress would grant an exclusive privilege, and to an extent which, at a future day, might be of injurious consequence. If he were to indulge his feelings merely, Mr. P. said, he should vote for this sooner than for almost any other object; but he would not give a vote which should extend, for any reason, an exclusive privilege to any religious society. That, he said, was a principle of legislation which he considered fixed by the precedents already established.

Mr. HOLMES, of Massachusetts, replied to Mr. Poindexter's argument drawn from precedent; which, as far as he understood it, so far from being conclusive, was about as broad as it was long. If any weight at all belonged to the case brought into precedent, in which both Houses had passed, and the President rejected, a measure, it was in favor of this claim. It was the opinion of the two Houses, it appeared, that the bill in question ought to have passed; which opinion was counteracted by the veto of the President.

With all due deference to the Executive authority, Mr. H. said he should on any occasion think the affirmative of a majority of both Houses of Congress at least as strong as the single negative of a President. He felt not that alarm, he said, which some had expressed, at granting favors to religious societies. We may grant them, said he, without danger, as great privileges as we may to other societies. We may, and frequently do, grant to an individual the right of pre-emption to a tract of land; and he could not see any evil which could arise from granting the same favor to a church. The present case did not appear to Mr. H. to be liable to the objection of its being a grant of peculiar privileges. He hoped it would not be considered any prejudice to the merit it possessed in other respects, that this application came from a religious society; and, considering the nature of the object on which a remission of a duty was proposed, as eloquently described by the gentleman from Virginia, Mr. H. could not see any objection to granting it. The vote for laying on the table the bill for remitting duties on the importation of stereotype plates for printing Bibles, which had been referred to, could not be regarded as a rejection of it, as many other subjects which had received the attention of Congress during the session were in the same situation. But that case, Mr. H. said, was not similar to the present. Bibles, he remarked, are sacred things; but they are also articles of commerce, and many persons make a living by buying and selling them. It was impos-

sible any profit could be made out of this organ, the claim for a remission of duties on which, therefore, stood on higher ground.

Mr. LOWNDES said, he hoped the motion to reverse the report would not be agreed to. He concurred entirely in regard to the force of former precedents, in the opinion of Mr. HOLMES, that the expression of the deliberate opinion of this House was entitled to at least as much confidence as that of any other branch of Government. But what, in the case referred to, had been the *deliberate* opinion of the House? The bill might have passed without objection through both Houses; but, when returned by the President with his objections, and submitted to what might be called the deliberate voice of this House, a large majority concurred in the views taken by the Executive. The precedent, therefore, was one of a decision of this House as well as of the Executive. Assuredly, Mr. L. said, if it be right that a particular species of property imported should be exempted from duty, the rule should be a general one, equally applicable to all. In discussing the tariff of duties which now exists, and which he might say had been formed with care and labor, no proposition was thought of for exempting organs from duty, nor for exempting from duty all manufactures intended for the use of churches; nor would such a proposition have been agreed to had it been made. If, under a general rule, similar articles ought not to be exempted from duty, Mr. L. contended there was nothing in this particular case to make it an exception, especially as the article was of a description which might have been procured at the manufactories in this country.

Mr. MERCER supported the motion of Mr. TYLER by a brief argument on the question, and an earnest appeal to the sensibilities of the House. In replying to the objection that to grant the petition would be to confer exclusive privileges on a religious institution, Mr. M. argued that this was not a privilege, and could not properly be so regarded, being a grant of a particular duty which has actually accrued to the United States. Nor would the grant be an indulgence to a particular religious society, since the Monumental Church had been erected by contributions from religious societies of every denomination, to commemorate that event which had been so feelingly described by his honorable friend. The motive of the petition, he said in the course of his remarks, he believed, was not merely to save the few hundreds of dollars of duty, but probably sprung from a finer feeling—from a desire to obtain, in some manner, the expression of the sympathy of Congress in the regrets of those who would never cease to lament the shocking catastrophe on which the church was founded. Mr. M. referred to cases on which Congress had exercised powers analogous to that embraced in this proposition. For instance, he said, they paid at every session a compensation to the Chaplain, who, by his daily prayers to the Throne of Grace, sheds a calm over the deliberations of this body, &c. Congress had also legislated in cases of a description

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very similar, by exempting from duty all philosophical apparatus, &c., &c., imported for the use of any society incorporated for philosophical or literary purposes. Having relaxed the revenue laws in these respects, why not extend the favor further? Why not extend it to the instrument which is to accompany the solemn anthem to the only true God, as well as to philosophical instruments, and to statuary or painting? Mr. M. made many other remarks, not distinctly heard by the reporter, but in the same spirit as the above.

Mr. TYLER rose to refer to a precedent found in the statute book, distinctly supporting the proposition he had made, which he read. It was an act of recent date, remitting the duty on certain stereotype plates, imported in 1815 for the use of the Bible Society of Baltimore. The case which he now supported stood on higher ground. And how, he called upon gentlemen to say, could they discriminate between the present case and that of the remission of duties on the painting for the Pennsylvania Hospital, for which purpose an act was passed at the present session?

The motion to reverse the report was then negatived, and the report was agreed to.

#### FUGITIVES FROM JUSTICE, &c.

The House having resumed the consideration of the bill providing for the recovery of fugitive slaves, and the question having been announced to be on the passage of the bill—

Mr. ADAMS, of Massachusetts, opposed the bill at much length; on the ground principally that, in guarantying the possession of slave property to those States holding it, the Constitution did not authorize or require the General Government to go as far as this bill proposed, to render the Constitutional provision effectual; that the bill contained provisions dangerous to the liberty and safety of the free people of color in other sections in the Union; and that, in securing the rights of one portion of the community, he could not consent to jeopardise those of another.

Mr. ANDERSON, of Kentucky, spoke some time very earnestly in support of the bill, and in reply to the objections urged by the gentlemen who had at different times opposed it.

Mr. LIVERMORE, of New Hampshire, submitted the reasons for his intention to vote against the bill. He was willing to go to the necessary extent in securing to the owners this species of property, permitted as it was by the Constitution; but the bill contained no sufficient guard to the safety of those colored people who resided in the States where slavery was known only by name. The bill provided that alleged fugitives were not to be identified and proven until they reached the State in which the person seizing them resided; and this would expose the free men of other parts to the hazard of being dragged from one extreme of the country to the other—though this fear was not strengthened by any want of respect for the wisdom and justice of the Southern judiciaries, to which he paid the highest compliment; but the feelings entertained on the subject in the South, he feared, would make less secure the

liberty of any colored man carried there, and charged with being a fugitive.

Mr. MASON, of Massachusetts, delivered at length his motives for approving the bill. The Constitution, formed in the spirit of compromise, had guarantied this kind of property to the Southern States, and as it appeared from the insufficiency of the existing laws, that the proposed bill was necessary to secure this right, he was willing to adopt the measure, as he was always willing to approve any measure to effect what the Constitution sanctioned. The possible abuse of anything was no argument against it, if otherwise expedient, and on this ground he was not prepared to reject the feature of the bill so much opposed. The judicial tribunals of the South, he had no doubt, would decide on the cases as correctly as those of the North, and on this subject perhaps more so, as, he believed, so strong was the feeling on this subject in the latter section of the country, and so great a leaning was there against slavery, that the juries of Massachusetts would, in ninety-nine cases in a hundred, decide in favor of the fugitive. His feelings on this bill were also somewhat interested; as he wished not, by denying just facilities for the recovery of fugitive slaves, to have the town where he lived (Boston) infested, as it would be, without an effectual restraint, with a great portion of the runaways from the South.

Mr. HOLMES, of Massachusetts, followed his colleague in submitting his reasons for approving the bill, and to reconcile the apparent contradiction in a gentleman from his part of the country appearing as the supporter of this bill. His course on this, as on other measures, was based on his duty as a Representative for the whole Union, instead of local interests. This measure, it appeared, was necessary to secure the Constitutional rights of a large portion of the States; and, as to the provision so strongly objected to by some gentlemen, he did not think it competent in Massachusetts to try a question between a Southern master and his slave; it was a kind of question, with which his constituents, to their honor, were not familiar, and he wished them to remain so. He did not believe the freedom of a single man in the North would be endangered by this provision of the bill; the *habeas corpus* would prevent it; and he went into various arguments to prove that the bill was expedient, and free from the evils apprehended by other gentlemen.

Mr. RUEL made some observations in support of the bill, and in reply to the arguments against it. So long as this property was authorized, there could be no doubt of the right of the holder to pursue it, and carry it back without hindrance to the place from whence it escapes. He thanked Heaven, this nation was not chargeable with the odium of introducing this species of property; it was an evil entailed on it; and this bill was in conformity with the principles of the compact which guarantied this property to its holders. There was little danger of persons going from the South to claim free men as their property; such a fear was without foundation. He always

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felt pain in hearing distinctions made between the slaveholding States and others; nearly all the old original thirteen States had held slaves, and, if circumstances had enabled some of them to get rid of the evil, the only feeling they ought to entertain towards the others, is, compassion that they are not so fortunate.

Mr. STORRS, of New York, entered into a number of arguments in support of the bill. He referred to and reasoned on the words of the Constitution, to show that the bill was consonant to its provisions, and did not exceed the limits within which Congress were authorized to legislate on the subject. He expressed his pleasure at the liberality which had been manifested by some in its discussion, but should like to see a little more displayed by gentlemen from the North, as an evidence they were willing to sacrifice some of their old prejudices to the spirit of harmony and mutual benefit.

Mr. WHITMAN, of Massachusetts, admitted the necessity of some additional regulations on this subject, as the existing law appeared inadequate; but he could not vote for this bill in its present shape. He objected to that provision, which makes it penal in a State officer to refuse his assistance, in executing the act. This feature, if retained, would prevent his voting for the bill, as its penalties would require the State officers either to resign, or perform an act which might be repugnant to their feelings, and render their official stations frequently disagreeable. Furthermore, he did not believe Congress had the right to compel the State officers to perform this duty—they could only authorize it; and, as he believed the bill might be made effectual without this objectionable provision, he hoped it would be re-committed, and receive the necessary modification. In reference to a remark of his colleague, (Mr. MASON) he had no doubt that justice would be administered under this act by the tribunals of Massachusetts, if the duty were devolved on them, as impartially as in any other part of the Union, notwithstanding the prejudices they felt on the subject; yet he did not doubt that exact justice would also be rendered by the tribunals of the South, where prejudices were felt of an opposite character.

Mr. WILLIAMS, of Connecticut, was called up by the remark of Mr. STORRS, and admitted that, if he could not and had not banished all his local prejudices, he ought to have done so. Mr. W. then entered, at large, into an examination of the bill, into his reasons for opposing it unless it was altered in some of its features, and to show that in its present shape it was calculated to excite angry feelings and rouse strong prejudices in those parts of the country where slavery was not tolerated. This effect would be produced by that provision under which a free man of color might be unjustly seized and dragged to a remote part of the country, and his liberty endangered, if not destroyed. In attempting, properly, he admitted, to secure the right of property to one class of citizens, it was unjust that the rights of another class should be put in jeopardy, when, too, as he con-

tended, the danger might be avoided, in one case, without impairing the benefit in the other. Although he wished not to interfere between a slave and his master, yet he argued that the right ought to be tried in the State in which the fugitive should be arrested; and compared the case to that of a runaway apprentice, who could not be seized and carried away by the ex parte testimony of the person claiming him.

The question on the passage of the bill was then taken, and decided in the affirmative—yeas 84, nays 69, as follows:

YEAS—Messrs. Abbott, Anderson of Kentucky, Austin, Baldwin, Bassett, Bayley, Bellinger, Bloomfield, Bryan, Burwell, Campbell, Cobb, Colston, Cook, Crawford, Desha, Drake, Earle, Edwards, Ervin of South Carolina, Floyd, Forney, Forsyth, Garnett, Hall of Delaware, Hall of North Carolina, Hasbrouck, Herbert, Herkimer, Hogg, Holmes of Massachusetts, Hubbard, Johnson of Virginia, Johnson of Kentucky, Lewis, Little, Lowndes, McLane, McCoy, Marchand, Marr, Mason of Massachusetts, Mercer, Middleton, Moore, Mumford, H. Nelson, Nesbitt, New, Newton, Ogden, Owen, Palmer, Patterson, Peter, Pindall, Pleasants, Poindexter, Quarles, Reed, Rhea, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Rugles, Sampson, Settle, Slocumb, S. Smith, B. Smith, J. S. Smith, Speed, Spencer, Stewart of North Carolina, Storrs, Strother, Stuart of Maryland, Tompkins, Trimble, Tucker of South Carolina, Tyler, Walker of North Carolina, Williams of North Carolina, and Wilson of Massachusetts.

NAYS—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Ball, Barber of Ohio, Bateman, Beecher, Bennett, Boden, Boss, Clagett, Comstock, Crafts, Culbreth, Cushman, Folger, Fuller, Gage, Hale, Hendricks, Herrick, Heister, Hitchcock, Hopkinson, Hunter, Huntington, Ingham, Irving of New York, Kinsey, Kirtland, Lawyer, Livermore, W. Maclay, W. P. Maclay, Merrill, Morton, Murray, Ogle, Orr, Parrott, Pawling, Pitkin, Rice, Rich, Richards, Savage, Scudder, Sergeant, Seybert, Shaw, Sherwood, Silsbee, Spangler, Strong, Tallmadge, Tarr, Taylor, Terry, Townsend, Upham, Wallace, Wendover, Whiteside, Whitman, Williams of Connecticut, Williams of New York, Wilkin, and Wilson of Pennsylvania.

*Ordered*, That the title be, "An act to provide for delivering up persons held to labor or service in any of the States or Territories, who shall escape into any other State or Territory."

The House adjourned to Monday.

MONDAY, February 2.

Mr. SCOTT presented a petition of sundry inhabitants of the Territory of Missouri, praying that the said Territory may be erected into a State government, and admitted into the Union on an equal footing with the original States; which was ordered to lie on the table.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the petition of Benjamin Berry; which was read, when Mr. W. reported a bill for the relief of the said Benjamin Berry, which was read twice, and committed to a Committee of the Whole.

Mr. W., from the same committee, also made

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a report on the petition of Miller & Barker; which was read, when Mr. W. reported a bill for the relief of Thomas Miller and Stephen Barker, which was read twice, and committed to a Committee of the Whole.

On motion of Mr. INGHAM, the Commissioner of the Public Buildings was directed to communicate to this House a copy of the original deed of conveyance to the trustees of the United States for the public lots in the city of Washington, and such other information as may be in his possession, relating to the location of the public offices on the President's square.

On motion of Mr. SILSBEE, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of so amending the "acts regulating the collection of duties on imports and tonnage," as that masters of vessels which may stop for supplies, or in consequence of adverse winds or weather, at the port of Martha's Vineyard, within the district of Edgartown, on their way to other ports of the United States, may not be compelled to make entry of their vessels or to pay hospital money or tonnage duty, at any of the ports within said district, nor to proceed from the port at which the vessel may arrive to any other port within that district, for the purpose of making a report.

On motion of Mr. ROBERTSON, of Louisiana, the Secretary of the Treasury was directed to cause to be laid before this House the reports of the several boards of commissioners appointed for the settlement and adjustment of land claims in the State of Louisiana and Territory of Missouri.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting reports made in obedience to a resolution of the 19th of December last, upon the subject of land warrants issued and extra pay allowed since the 3d of March, 1817, under the "act granting bounties in land and extra pay to certain Canadian volunteers," and the act supplementary thereto; which were ordered to lie on the table.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting two statements, showing the quantity of land in each of the land districts, the quantity which has been sold, and the quantity remaining for sale, together with the emoluments of the registers and receivers of the land offices for four years preceding the 1st of October, 1817; which was referred to the Committee on the Public Lands.

Mr. BASSETT submitted to the House a bill for organizing, classing, and arming the militia, and for calling them forth to execute the laws of the Union, suppress insurrections, and repel invasions, and to repeal the laws heretofore passed for those purposes, to be taken up upon the consideration of the bill reported at the present session by Mr. HARRISON, from the committee on that part of the President's Message which relates to the militia. The bill was ordered to lie on the table.

The amendment proposed by the Senate to the bill, entitled "An act making appropriations for

the payment of the arrearages which have been incurred for the support of the Military Establishment previous to the 1st of January, 1817;" was read and referred to the Committee of Ways and Means.

### GENERAL ST. CLAIR.

The House then, by a small majority, resolved itself into a Committee of the Whole on the bill for the relief of General Arthur St. Clair.

This bill gave rise to a discussion which occupied the Committee until sunset, in the course of which the motives of the act of 1810, for the relief of General St. Clair, the act of limitations, the merits of the petitioner, the justice of his claim, &c., were all brought into view, as well as the propriety of various amendments offered to the bill.

Mr. ERVIN, of South Carolina, spoke as follows:—At the commencement of this debate, I had no idea of intruding any observations of mine upon the attention of this Committee; but, in justice to my feelings, I cannot now be silent. The integrity of the petitioner has been questioned, and his account denounced as incorrect. It is a case, now, not so much of calculation, as of feeling, and I address you with mingled sensations of pity and regret; pity, for the character of this venerable Revolutionary officer, and regret, that his claim should have met, in this House, with a solitary opponent. I, therefore, rise, not merely to defend the correctness of his claim, but to endeavor to shield from the tarnish of dishonor that fame which is no longer his, but the inheritance of his country. Send not, I beseech you, his claim to the Treasury Department. Many of the vouchers, which might have tended to evidence their correctness, may have been lost through the lapse of years, or the casualties of war. Again, sir, his demand is for the interest of eighteen hundred dollars. In the Treasury Department they allow no interest. To send it there, then, is tantamount to a rejection. But in this House, which is, or ought to be, the fountain of general justice, the principle to pay interest has been adopted, and precedents are already established. Here, then, let us decide upon their correctness or incorrectness. But, I am told, adopt the amendment proposed by an honorable member from Georgia, and my objections will be removed—that the proposed amendment gives to the head of the Treasury Department equitable powers. Specify and define those powers, that I may judge of their propriety; for, if the powers thereby intended to be given are calculated to arm the head of that Department with discretionary powers, to admit or reject the claim, as to him may appear right and proper, without being governed by the rules of office or regulations of law, I am in duty bound to oppose it. Not, sir, that I doubt the talent or integrity of the officer who presides over, and confers honor upon that department, but, because powers of that description, in a free Government, ought never to be resorted to, unless in cases of imperative necessity.

I now call your attention to General St. Clair's claim:—It is for the interest of eighteen hundred dollars, which, he alleges, he advanced, during the Revolutionary war, to Major Butler for the United States, and which sum was expended for their benefit, and produces to you the receipt given to him by Major Butler for that sum. Duly to appreciate the value of this loan, it is only necessary to advert to the time when it was made. It was at the dawn of our Revolution, when the liberties of our country were struggling into existence. At this interesting moment, he early and generously stepped forward in their defence against the unrivalled Power, whose legions had humbled Spain and France, and whose flag waved in proud triumph round the universe. Under these appalling circumstances, his country sought him beyond the mountains, and demanded his services—he left the endearment of his family, and the security of private life, to encounter, for this very country, whose Government now repels his claim, the dangers and destruction of war. It is, however, contended, by the honorable the Speaker, that this receipt admits of two constructions. I admit the fact: but will we consult the dignity, or even the interest of our country, by adopting a construction, which, whilst it debases the individual, degrades the country? But I contend that the construction given to the receipt, by the honorable the Speaker, is contrary to every rule of construction with which I am acquainted. He contends, with zeal and much eloquence, that the money which was advanced, and from which the receipt was given, may have been public money which had been placed in his hands by the then Government. Where is the evidence to prove that fact? It is very material; if such evidence does exist, the House is entitled to it; and if none is produced, we are at liberty to presume that none exists. Again, sir, every circumstance, connected with this interesting distressed Revolutionary soldier, repels such an idea. He fought with Amherst in the West, and conquered with Wolfe on the plains of Abraham; at Ticonderoga he merited, if he did not obtain, victory; he rose superior to the weakness of humanity, and yielded himself a sacrifice to his integrity; he there could have reaped bloody honors, and, perhaps, deathless renown, by the destruction of a gallant army, which afterwards contributed to the triumph at Saratoga; the adoption of his advice saved your army at Trenton; he was one of your Major Generals during the Revolutionary war; he presided over the former deliberations of your Congress; he was a friend of WASHINGTON, and shared the confidence of that great man to the day of his death. And can it be possible, that a man thus elevated, by those circumstances which usually tend to ennoble human character, can submit to the degradation of presenting to the Government of his country a false account for the pitiful sum of four or five thousand dollars, and he trembling on the brink of the grave? The idea is too debasing, it is ungenerous—it ought not to be entertained for a moment. Seven long years he has literally begged at your doors;

committees after committees have said his accounts ought to be paid. If you think otherwise, reject them; but why will you debase him—why will you add insult to injury? Recollect his services, and O! let his gray hairs pass in peace to the grave! But again, I have always been taught to believe, that it is a correct rule of construction, when an instrument of writing is presented to you, susceptible of two constructions, you are bound to permit that construction to prevail which will operate most strongly against the obligor and most in favor of the payee or obligee. Apply this rule of construction to the case now before you, and further comment is unnecessary, the conclusion is irresistible.

The opponents of the claim tell us, if it is rejected, they will join and vote him so many hundred dollars a year. Mr. Chairman, I have no idea of introducing under the garb of public sympathy, a pensioned corps, other than that already established, composed of unfortunate individuals disabled in the military or naval service of my country. Let us first be just, and, with the public money, generous only in case of necessity.

The acts of limitation have been appealed to as barring the claim of the petitioner. Sir let them bar, and prevent fraud and injustice, but not right, nor the claims of Revolutionary merit in distress. Let them prevail in the departments of the Government; enforce them, if you please, in the courts of law, but in this temple of justice they are inoperative—they vanish before legislative discretion. An honorable gentleman from Pennsylvania (Mr. HOPKINSON) whom I have always listened to with pleasure and edification, has anticipated me in one idea in relation to the act of limitation. He has very properly remarked, that your committees have not only acknowledged the correctness of the claim, but recommended its payment, and that the House, acting upon that recommendation, have not only sanctioned their reports, but have paid the principal of the claim which, in legal contemplation, takes the claim out of the act of limitation. It does more; it not only takes it out of the act of limitation, but proves one of two things, either that the claim is correct, and that the interest ought to be paid, or that the committees who recommended payment, and the Congress which paid, paid an illegal and improper account. But I contend, and hope I shall be able to prove to the satisfaction of this Committee, that this claim has never been embraced by your acts of limitation. Acts of limitation commence their operation, not from the time of making a contract, or the time of its execution, but from the day assigned for payment; for example, a note dated 1st of January, 1817, payable the 1st of January, 1818, when will an act of limitation commence its operation? Every mind anticipates the answer—from the day of payment; this principle being established, let us inquire into the nature of General St. Clair's claim: it is of the nature of a debt payable on demand, which excludes the idea of any particular day of payment; in such cases a discretionary power is left with the payee or obligee to



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make the demand, which is evidenced by proof of a formal demand, or, what is the more usual way, by the entry of mesne process in the hands of the sheriff; in either way the act begins to run only from the time of the demand. General St. Clair's claim, if I am correctly informed, was presented in 1810, and has been preferred from that time to the present; your acts of limitation therefore cannot affect it. The correctness of the claim being established, as his advocate in my official capacity, I demand for him the payment. And how is he paid? Injustice still presents these acts of limitation—as a payment for what? The claim? Yea, more; for sleepless days and nights; for services the most eminent, rendered at a time which emphatically tried men's souls; when patriotism was denounced as treason, and defeat was slavery or death. Mr. Chairman, if the claim is doubtful, and if I shall stand here alone, I shall vote to relieve the distresses of the Revolutionary soldier. Lamented ingratitude! Thus have your soldiers been paid; they who fought for your liberties and independence. After the Revolutionary war, they looked up to their Government for justice; wounded and disabled they performed an annual pilgrimage to your House; year, after year, they petitioned for their wages; at last, tired with their complaints, acts of limitation were passed; just or unjust, their claims were forever barred. Hope, the last consolation of the miserable, being thus cut off, numbers retired beyond the mountains and pined out a miserable existence. This session, the glorious few whom death had not relieved, driven by want, once more approached you; they dropped the tone of remonstrance; they assumed the accents of humanity and distress, and begged for bread; you felt the appeal, and, with a promptitude honorable to yourselves and grateful to the people, you voted a partial relief. O! that they had been made partakers of the thousands that are expended in which the heart would have united with the judgment in approving the expenditure. Mr. Chairman, we have listened to the prayers of the subaltern, let us not discard the claim of the chieftain; pay him his account; fill his heart with gratitude; send comfort to the humble mansion which now shelters him from the rude storm of the mountain; he will thank you, and in his last moments will give to his country all that he has to give—his blessing.

A motion, made by Mr. FORSYTH, to amend the bill by directing the accounting officers of the Treasury to adjust the claim of General St. Clair, and allow him the principal and interest of whatever amount may appear to be due, any law to the contrary notwithstanding, was under consideration, when the Committee rose, and obtained leave to sit again.

TUESDAY, February 3.

Another member, to wit: from Massachusetts, ELIJAH H. MILLS appeared, produced his credentials, and took his seat.

Mr. LOWNDES, from the Committee of Ways and Means, to whom was referred the amendment proposed by the Senate to the bill, entitled "An act making appropriations for the payment of the arrearages which have been incurred for the support of the Military Establishment previous to the 1st of January, 1817," reported the agreement of the committee to the said amendment. The amendment was then concurred in by the House.

Mr. LOWNDES made a report on the petition of Jonathan Amory, jr., which was read, when Mr. L. reported a bill for the relief of Jonathan Amory, jr., and of the representatives of Thomas C. Amory, deceased; which was read twice, and committed to a Committee of the Whole.

Mr. LOWNDES, from the Committee of Ways and Means, to whom was referred the petition of Morton and Sneed, reported a bill to authorize payment in certain cases on account of Treasury notes which have been lost or destroyed; which was read twice, and committed to a Committee of the Whole.

Mr. WILLIAMS made an unfavorable report on the petition of Basil Shaw, of Tennessee, who prays compensation for a slave killed whilst in his employ in the military service, by a cannon ball, before New Orleans, on the morning of the 8th of January; which was read and concurred in.

Mr. HERBERT, from the Committee for the District of Columbia, reported a bill to incorporate the Columbian Institute for the promotion of arts and sciences, which was read twice, and committed to a Committee of the Whole.

Mr. H., from the same committee, to whom was referred the bill from the Senate, entitled "An act to incorporate the Mechanic Relief Society of Alexandria," reported the same without amendment; and the bill was committed to a Committee of the Whole.

Mr. COMSTOCK, from the select committee to whom was referred the memorial of Dr. James Smith, agent for vaccination made a report, expressive of their confidence in the efficacy of vaccination, and of their satisfaction at the manner in which Dr. Smith has discharged the duties belonging to him as agent therefor; but declaring their opinion that vaccination can be efficaciously disseminated among the Army and Navy of the United States, by the surgeons thereof, without incurring any additional expense.—Concurred in.

Mr. FORSYTH submitted the following resolution; which was read, and ordered to lie on the table till to-morrow:

*Resolved*, That the Committee of Ways and Means be instructed to inquire whether the Bank of the United States is authorized, by its charter, to receive as pledge or security for loans made to individuals or corporations, a transfer of public debt made to the bank, or to any officer thereof, and if, in their opinion, such transfers are not authorized by the act of incorporation, to report to the House some effectual mode of preventing them from being hereafter made.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An

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act making appropriations for the military service of the United States, for the year 1818," with amendments; and they have passed a bill, entitled "An act to divide the State of Pennsylvania into two judicial districts," in which bill and amendments they ask the concurrence of this House.

The amendments to the first-mentioned bill were read, and referred to the Committee of Ways and Means.

The bill from the Senate, entitled "An act to divide the State of Pennsylvania, into two judicial districts," was read twice, and committed to the Committee on the Judiciary.

Mr. LOWNDES, after briefly explaining the liability of the Government to be defrauded of its revenue by drawbacks on the re-exportation of foreign liquors, from the absence of any means of identifying them, except the marks on the casks, &c., moved the following resolution:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of making provision by law for allowing foreign wines and distilled spirits to be deposited in the stores of the Government, and of limiting the drawback on exportation to such as shall have been so deposited.

The resolution was agreed to.

#### CASE OF R. W. MEADE.

Mr. TRIMBLE submitted for consideration the following resolution:

*Resolved*, That the demand made by the President of the United States upon the King of Spain for the liberation of Richard W. Meade, a citizen of the United States, detained in confinement in the Castle of Santa Catalina at Cadiz, ought to be supported and enforced by vesting the President with authority to make reprisals, in the event of a failure on the part of Spain, promptly to discharge the said Meade.

Mr. TRIMBLE said he had submitted this resolution with a view of moving that it should, together with the Message of the President, and the documents accompanying the same, be referred to a Committee of the whole House for Friday next. Being up, he took occasion to say, that it would appear from the documents, that the statements of the particulars of this case heretofore perceived through the medium of the newspapers, were substantially correct, and that the outrage, on the part of the Spanish Government, was as great as it had been supposed. On examination, it would be found that our Government, in one respect, was different from any other that had ever existed: Congress alone having the power to authorize reprisals, whilst in every other Government that power is vested in the Executive authority. The demand made by the President, Mr. T. said, was, in his opinion, a pretty strong one; and, if Spain should refuse to comply with it, he was further of opinion, that the House was bound to enforce the demand of the Executive, by clothing it with the proposed power. To bring this subject before the House, he had submitted this resolution, which he hoped would ultimately be adopted, and, he would add, in such a shape that no room should be left for secret orders or for treachery.

Mr. LOWNDES said he was not prepared to express any definite opinion on this subject, not having yet examined the documents in relation to it which had been recently transmitted to the House. But he took it for granted that the case would present two questions for consideration: first, whether Congress should act on it at all; and, secondly, what particular steps should be taken, or powers granted to the Executive. It was a matter of some importance, before acting on any particular proposition, to determine whether the House would act at all on the subject: and, this being a matter of importance, it ought to be deliberately and cautiously examined and acted on. Under this view of the subject, he suggested that it would be proper that some time should be given for consideration. He therefore thought it would be a proper course to lay the resolution on the table, not with any view to prevent the discussion of it, but that it might be taken up whenever time should have been given to look over the documents. With respect to the particular object of the resolution he should, at this time, say nothing, being doubtful whether it contemplated authorizing the Executive to issue letters of marque and reprisal in the usual form to our vessels, or a reprisal on the person of any subject or subjects of Spain.

Mr. PITKIN concurred entirely in opinion with Mr. LOWNDES as to the necessity of deliberation and caution, in the consideration of a proposition of this moment. The House was advancing on difficult ground, and ought to tread it lightly and warily. For his part, he said, he was not at present for doing anything on the subject, it being in the hands of the Executive. But, at any rate, he desired time for reflecting on a proposition which could only be regarded as a measure of war, depending on a certain contingency.

Mr. TRIMBLE said, as to the terms of his resolution, he had made them general, for the purpose of allowing any modification of the resolve that the House might choose. It appeared to him, Mr. T. said, that he differed from the gentleman from Connecticut in regard to what was the duty of a nation. For instance, said Mr. T., if that gentleman himself were confined in the prison of Santa Catalina, or any other prison, without just cause, I would be ready to make war for his release, if necessary. I would not stop to calculate consequences when brought into competition with personal liberty. In relation to the motion to lay the resolution on the table, he had not the least objection to it, having moved to refer it to the Committee of the Whole, only because he thought that course more respectful to the House.

Mr. PITKIN said he did not mean to deny that there might be cases in which war would be justified to rescue a fellow-citizen from imprisonment or slavery; but he had no idea of making war for any such purpose, without examining well the grounds of it, and certainly not when the subject was in the course of investigation by a different department of the Government.

Mr. TRIMBLE said he was misunderstood in being supposed to contemplate war by his motion.

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So far from the proposition it embraced being a measure of war, it was admitted by all writers on the subject to be a measure to prevent war, and had been so used by all nations. It was not therefore a war measure, but a measure to prevent war. It might lead to war, he granted, as any other collision between nations might; but in itself it was not war, nor was it so intended.

Mr. FORSYTH inquiring whether the documents on this case were before the House, the SPEAKER answered that they had been ordered to be printed, but were not yet sent in.

The motion to lay the resolve on the table, was agreed to, *nem. con.*

#### GENERAL ST. CLAIR'S CLAIM.

The House then resumed the unfinished business of yesterday, and again went into a Committee of the Whole on the bill for the relief of General Arthur St. Clair.

The debate on the merits of this case, and on the propriety of Mr. FORSYTH's amendment, was resumed and continued with increased ardor and unusual eloquence, until after four o'clock, when the Committee rose, by the casting vote of the Chairman, and obtained leave to sit again.

On motion of Mr. COBB, it was

*Resolved*, That the Secretaries of the Treasury and War Departments do cause to be laid before this House, a statement of the accounts of General Arthur St. Clair with the General Government, both before and since the adoption of the Federal Constitution, to be found in their offices, respectively, and, if the same have been settled and balanced, showing in what manner, and at what dates the same were settled and balanced.

#### WEDNESDAY, February 4.

Mr. STRONG presented a petition of Moses Sanderson, praying for an increase of the pension heretofore granted to him.

Mr. BLOUNT presented a petition of Samuel Douthet, praying to be paid for property belonging to a certain Malechia Motlow, deceased, of which he was robbed by the Cherokee Indians, in the year 1782, the Government having subsequently, by treaty with the said Indians, relinquished to them all property which they had taken from the citizens of the United States.

*Ordered*, That the said petitions be referred to the Committee on Pensions and Revolutionary Claims.

Mr. ROBERTSON, from the Committee on the Public Lands, to whom was referred the amendments proposed by the Senate, to the bill, entitled "An act making provision for the establishment of additional land offices in the Territory of Missouri," reported the same with amendments; which were agreed to by the House.

On motion of Mr. FORSYTH, the House proceeded to consider the resolution submitted by him yesterday, and the same was agreed to by the House.

On motion of Mr. PINDALL, the House proceeded to consider the resolution submitted by

him on the 26th ultimo; and the same being read, was disagreed to by the House.

The SPEAKER laid before the House a letter from Albion K. Parris, communicating information that he has addressed a letter to the Governor of Massachusetts, resigning his seat as a Representative from that State, in the Congress of the United States; which was ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to incorporate the Columbian Insurance Company of Alexandria," with amendments; in which amendments they ask the concurrence of this House.

#### MILITARY APPROPRIATIONS.

Mr. LOWNDES from the Committee of Ways and Means, made a report on the amendment of the Senate to the bill making the annual appropriations for the Military Establishment; which was read, and made the order of the day for this day.

The House then, on motion of Mr. LOWNDES, suspended the preceding orders, and forthwith resolved itself into a Committee of the Whole, on the said report.

The first amendment made by the Senate to the bill, was the insertion of a provision appropriating twenty thousand dollars for additional pay, rations, &c., to officers having brevet commissions, when commanding separate posts, districts, or detachments, requiring them to act in their brevet rank.

This amendment the Committee of Ways and Means recommended to the House to disagree to, and, on this question, the debate was revived, which had engaged the House when the bill was first introduced; embracing in its scope the expediency of continuing brevet emolument, the propriety of defeating an existing law by refusing the appropriations necessary to give it effect, &c. The gentlemen who joined in the discussion, were Messrs. LOWNDES, MERCER, HARRISON, CLAY, SMITH of Maryland, TERRY, HOPKINSON, STORRS, COLSTON, and FORSYTH.

The question was finally decided against the Senate's amendment.

The Committee agreed successively to the other amendments of the Senate, which produced no debate; and rose, and reported their proceedings to the House.

The House took up the report of the Committee of the Whole, and, on the question to concur with the Committee of Ways and Means, and with the Committee of the Whole, in their disagreement thereto, it passed in the affirmative—yeas 125, nays 32, as follows:

YEAS—Messrs. Abbott, Adams, Allen of Vermont, Anderson of Pennsylvania, Austin, Barbour of Va., Bassett, Bateman, Bayley, Bellinger, Bennett, Bloomfield, Boden, Boss, Bryan, Burwell, Butler, Campbell, Claiborne, Cobb, Comstock, Cook, Crafts, Culbreth, Cushman, Desha, Drake, Earle, Edwards, Ellicott, Ervin of South Carolina, Floyd, Folger, Forsyth, Gage, Garnett, Hale, Hall of Delaware, Hall of North Carolina, Hendricks, Herbert, Herrick, Heister, Hogg,

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Holmes of Massachusetts, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Huntington, Johnson of Virginia, Lawyer, Linn, Little, Lowndes, McLane, W. Maclay, W. P. Maclay, McCoy, Marchand, Merrill, Mills, Moore, Morton, Mosley, Mumford, Murray, Jer. Nelson, H. Nelson, Nesbitt, New, Newton, Owen, Patterson, Pawling, Pitkin, Porter, Quarles, Reed, Rhea, Rice, Rich, Richards, Ringgold, Robertson of Kentucky, Ruggles, Sampson, Savage, Sawyer, Scudder, Sergeant, Settle, Shaw, Sherwood, Silsbee, Slocumb, S. Smith, Bal. Smith, J. S. Smith, Southard, Spangler, Speed, Stewart of North Carolina, Strong, Strother, Stuart of Maryland, Tallmadge, Tarr, Taylor, Tompkins, Townsend, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Upham, Walker of Kentucky, Wallace, Wendover, Whiteside, Williams of Connecticut, Williams of North Carolina, Wilkin, and Wilson of Pennsylvania.

**NAYS**—Messrs. Baldwin, Ball, Blount, Colston, Cruger, Forney, Fuller, Harrison, Herkimer, Ingham, Irving of New York, Jones, Kinsey, Livermore, Mercer, T. M. Nelson, Ogden, Ogle, Orr, Palmer, Parrott, Peter, Pindall, Poindexter, Robertson of Louisiana, Seybert, Alex. Smyth, Spencer, Storrs, Terry, Williams of New York, and Wilson of Massachusetts.

The residue of the amendments proposed by the Senate to the bill were then concurred in by the House, with amendments to the third.

#### THURSDAY, February 5.

On motion of Mr. WHITMAN, the Committee on the Judiciary were directed to inquire into the expediency of altering the time of holding the district court, now by law holden at Portland, within and for the District of Maine, on the last Tuesday of May, annually, to the first Tuesday in June, annually.

A message from the Senate informed the House that the Senate insist on their first amendment to the bill, entitled "An act making appropriations for the military service of the United States for the year 1818;" and agree to the amendments proposed by this House to their third amendment to the said bill; and they have passed bills of the following titles, viz: "An act in addition to an act, entitled 'An act for the relief of John Thompson,'" "An act in addition to an act, giving pensions to the widows and orphans of persons slain in the public or private armed vessels of the United States;" "An act, providing for the sale of certain lands in the district of Marietta, and for the location of claims, and sale of certain lands, in the district of Vincennes;" in which bills they ask the concurrence of this House.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting the reports of the several Boards of Commissioners, for the settlement and adjustment of Land Claims in the State of Louisiana and Territory of Missouri; which was referred to the Committee on the Public Lands.

#### GENERAL ST. CLAIR'S CASE.

The House then resumed, in Committee of the Whole, the consideration of the bill for the relief of Major General Arthur St. Clair.

After some further debate, the question was taken on Mr. FORSYTH's motion to refer the settlement of the claim to the Treasury Department, and negatived by a large majority.

Mr. CLAY, then, after offering his reasons, moved an amendment to the bill, providing for placing General St. Clair on the pension list, and allowing him an annual pension of — dollars, and moved to fill the blank with six hundred dollars.

Mr. HARRISON moved to fill the blank with the sum of one thousand, which, after two counts, was carried—ayes 80, noes 73.

The question was taken on Mr. CLAY's amendment, with the blank thus filled, and negatived—ayes 68, noes 80.

Mr. TAYLOR, of New York, then moved an amendment directing the Secretary of War to place General St. Clair on the pension list, at the rate of — dollars per month, payable as other pensions are.

Mr. HARRISON moved to insert, before the clause directing the annual pension, a provision for paying to General St. Clair the sum of four thousand three hundred and thirty-six dollars, in full of his claim against the Government.

This motion was negatived—ayes 61, noes 88; and, the question recurring on Mr. TAYLOR's motion—

Mr. PALMER moved to fill the blank with fifty dollars as the monthly pension.

Mr. TERRY moved *eighty*, which was negatived—ayes 68, noes 78.

Mr. STORRS proposed *seventy-five* dollars per month, which was also negatived—ayes 67.

Mr. HARRISON moved the sum of *seventy*, which was also lost—ayes 71, noes 77; and

The sum of *sixty* was eventually agreed to—75 to 71; and, thus amended, Mr. TAYLOR's amendment was adopted by a large majority; after an unsuccessful motion by Mr. LIVERMORE to make the pension to commence on the 4th of July instead of March.

The Committee of the Whole then rose, and reported the bill, as amended, to the House.

The House having taken up the report of the Committee of the Whole—

Mr. TAYLOR, of New York, moved to strike out *sixty* as the amount of the proposed monthly pension, and to insert *fifty*.

This motion was decided by yeas and nays in the negative—yeas 73, nays 90.

Mr. MERCER then proposed an amendment, providing that General St. Clair should receive for the remainder of his life the half of the full pay attached to the rank which he filled in the Army at the close of the Revolutionary war; and also proposed, as part of the amendment, a preamble to the bill, expressive of the high sense entertained by Congress of the virtue and services, &c., of General St. Clair.

This motion not being in order unless previously considered in a Committee of the Whole—

Mr. MERCER, to attain his object, moved the recommitment of the bill to a Committee of the whole House; which motion was rejected by a

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large majority, and the amendment with it of course.

Mr. HARRISON made an unsuccessful attempt to revive the motion made in Committee by Mr. CLAY; and the question was then taken on concurring with the report of the Committee of the Whole, granting a pension of *sixty* dollars a month, and decided in the affirmative—yeas 122, nays 90, as follows:

YEAS—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Anderson of Kentucky, Baldwin, Ball, Barbour of Virginia, Bateman, Bayley, Beecher, Bellinger, Bennett, Bloomfield, Blount, Boss, Bryan, Butler, Campbell, Colston, Comstock, Cruger, Culbreth, Cushman, Drake, Earle, Ellicott, Ervin of South Carolina, Forney, Fuller, Gage, Garnett, Harrison, Hendricks, Herbert, Herkimer, Herrick, Heister, Hitchcock, Holmes of Massachusetts, Holmes of Connecticut, Hubbard, Huntington, Irving of New York, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Lewis, Little, Livermore, Lowndes, McLane, W. Maclay, Marchand, Mason of Massachusetts, Mercer, Middleton, Mills, Moore, Moseley, Mumford, Murray, Jeremiah Nelson, H. Nelson, Nesbitt, Newton, Ogden, Ogle, Orr, Owen, Palmer, Parrott, Patterson, Pawling, Peter, Pindall, Pitkin, Poindexter, Porter, Quarles, Reed, Rice, Rich, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Ruggles, Savage, Sergeant, Settle, Seybert, Shaw, Sherwood, Silsbee, S. Smith, Bal. Smith, Alexander Smyth, Spencer, Storrs, Strong, Strother, Stuart of Maryland, Tallmadge, Tarr, Terrill, Terry, Trimble, Tucker of Virginia, Tyler, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Westerlo, Whiteside, Williams of Connecticut, Williams of New York, Wilkin, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Abbott, Austin, Bassett, Boden, Burwell, Claiborne, Cobb, Cook, Crafts, Crawford, Desha, Edwards, Folger, Forsyth, Hale, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hogg, Hunter, Ingham, Lawyer, Linn, W. P. Maclay, McCoy, Merrill, Morton, T. M. Nelson, Rhea, Richards, Sampson, Sawyer, Scudder, Southard, Spangler, Speed, Taylor, Townsend, Tucker of South Carolina, and Williams of North Carolina.

Mr. MERCER then moved the following amendment, by way of preamble: "Whereas the Congress of the United States entertain a high sense of the tried integrity, as well as of the civil and military virtue of Arthur St. Clair, late President of the Congress, and Commander-in-Chief of the Army of the United States, whom they learn, with regret, has been reduced, by misfortune, to extreme poverty."

This motion was negatived—yeas 61, noes 81; and the bill was ordered to be engrossed and read a third time to-morrow.

FRIDAY, February 6.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made an unfavorable report on the petition of Paul Robinson.

Mr. RICH moved to reverse this report, (the object of the petition being to obtain indemnification for damages recovered of him by a Canadian for property seized from him, under the

impression it was military stores, during the late war.) After some debate on this motion, it was negatived, and the report was ordered to lie on the table for further examination.

Mr. WILLIAMS also made an unfavorable report on the petition of Major John Whistler; which was referred to a Committee of the Whole.

Mr. HERRICK, from the Committee on Private Land Claims, reported a bill for the relief of John Kennedy and Henry Nail, or their legal representatives; which was read twice, and committed.

Mr. SPENCER, from the Committee on the Judiciary, reported a bill for the relief of Elbert Herring; which was read twice, and committed.

The amendments of the Senate to the bill to incorporate the Columbian Insurance Company of Alexandria, were read, and concurred in.

Mr. SOUTHARD, from the Committee on Indian Affairs, to whom was referred the Senate's bill directing the manner of appointing Indian agents, and continuing the act for establishing trading-houses with the Indian tribes, reported the same without amendment; and it was referred to a Committee of the Whole, to whom was referred a bill previously reported by the same Committee, respecting the civilization and education of Indians.

The SPEAKER laid before the House a letter from the Secretary of War, stating that the report to this House from the War Department, dated on the 20th February last, contains all the information to be found in that Department, in relation to the claims of the State of Massachusetts, for expenses of calling out the militia of that State during the late war, and the reasons why they have not been allowed; which was read, and ordered to lie on the table.

On motion of Mr. BARBOUR, of Virginia, the Committee of Ways and Means were instructed to inquire into the expediency of authorizing the President to distribute an additional sum amongst the Assessors of the United States, for extra services.

On motion of Mr. HOPKINSON, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of providing for the payment of the expenditures made in laying down and taking up buoys in the river Delaware, in the Lazaretto channel, about twelve miles below the city of Philadelphia; and also for defraying in future, the expense of taking up and laying down the said buoys when required.

On motion of Mr. FORSYTH,

*Resolved*, That the President of the United States be requested (if, in his opinion, not inconsistent with the public interest) to lay before this House the correspondence with the Government of Spain, to which the letter of George W. Erving, the American Minister near that Court, of the 25th October, 1816, communicated with his Message of the 29th January, 1818, refers; and any subsequent correspondence between the two Governments on the same subject.

Mr. FORSYTH and Mr. MOSELEY were appointed a committee to present the said resolution to the President.

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The bill from the Senate, entitled "An act in addition to an act, entitled 'An act for the relief of John Thompson,'" was read twice, and committed.

The bill from the Senate, entitled "An act providing for the sale of certain lands in the district of Marietta, and for the location of claims and sale of certain lands in the district of Vincennes," was read twice, and committed to the Committee on the Public Lands.

The bill from the Senate, entitled "An act in addition to an act giving pensions to the widows and orphans of persons slain in the public or private armed vessels of the United States," was read twice, and referred to the Committee on Naval Affairs.

The House took up the Senate's message, insisting on their amendment to the military appropriation bill, (respecting brevet pay,) and agreed to insist on its disagreement thereto, and to ask of the Senate a conference thereon. To manage which conference, on the part of the House, Messrs. LOWNDES, SMITH of Maryland, and PERKIN, were appointed.

The engrossed bill for the relief of Major General Arthur St. Clair, was read a third time, and passed.

The House resolved itself into a Committee of the Whole, on the resolutions submitted by Mr. JOHNSON of Kentucky, and Mr. WALKER of North Carolina, on the 9th December last, and on the bill concerning half-pay pensions, invalid pensioners, and for other purposes; and after debate the Committee rose, reported progress, and obtained leave to sit again.

On motion of Mr. STORRS, the Secretary of War was required to communicate to the House a statement of the balances now due, respectively, from such persons now or heretofore acting in the Quartermaster and Paymaster's departments, whose accounts have not been settled for the period of more than one year previous to the 27th day of December last.

#### CASE OF GEORGE MUMFORD.

Mr. TAYLOR, from the Committee of Elections, made a report, accompanied by sundry documents, amongst which is a letter from Mr. Mumford to the committee, on the case of George Mumford, a member of this House from North Carolina, whose right to a seat has been questioned, because he had not, previously to attending the House, resigned the office of Principal Assessor in his district. The report concludes, on the ground that the duties and compensation of the office (and of course the office itself) had expired, that George Mumford is entitled to a seat in the House.

The report was read, and committed. It is as follows:

The Committee of Elections, to which was referred a resolution of the House of Representatives of the 10th of December, 1817, and a Message of the President of the United States, of the 29th of the same month, report:

That in the year 1813, subsequent to the passage of the act for the assessment and collection of direct

taxes and internal duties, George Mumford was appointed principal assessor of the tenth collection district of North Carolina; that he accepted the said office, and executed the duties appertaining thereto, under the several acts afterwards passed, laying direct taxes upon the United States; and that he has not resigned the said office.

In the month of August, 1817, he was elected a Representative of the said State; and on the first day of the present session he was qualified, and took his seat in this House.

The act of July 22, 1813, under which Mr. Mumford held his appointment, was prospective and without limitation. No law then existed laying a direct tax. But as Congress intended resorting to that system of revenue, it was enacted "that, for the purpose of assessing and collecting direct taxes," the United States should be divided into collection districts, and a principal assessor appointed for each district. If this act has neither expired nor been repealed, Mr. Mumford is still in office, and cannot rightfully be a member of this House. But by the second section of the act, to provide additional revenues for defraying the expenses of the Government, and maintaining the public credit, by laying a direct tax upon the United States, and to provide for assessing and collecting the same, approved January 9, 1815, the said act was repealed, except so far as the same respected collection districts, internal duties, and the appointment and qualification of collectors and assessors; in all which respects it was enacted that the said act should be, and continue in force for the purposes of the last mentioned act. The act of 22d July, 1813, so far as the same was not repealed, was thereby limited to the duration of that act, and was continued in force only for its purposes. By that act a direct tax of six millions of dollars was annually laid upon the United States, and apportioned agreeably to the provisions of the Constitution. At the first session of the Fourteenth Congress that act was modified, by repealing so much thereof as laid an annual tax of six millions, by reducing the same to three millions, and by limiting its continuance to one year; and it was expressly enacted that all the provisions of the act of January 9, 1815, except so far as the same had been varied by subsequent acts, and except the first section thereof, (which related to the apportionment of the tax,) should be held to apply to the tax of three millions thereby laid. Thus the act of July, 1813, was again limited, and continued in force for the purpose of the three million tax, laid March 5, 1816. Whenever those purposes were fulfilled, that act expired, and of course all offices created by it ceased to exist.

By the letter of the Secretary of the Treasury, hereto annexed, enclosing a report of the Commissioner of the Revenue, it appears that the entire tax assessed in the tenth collection district of North Carolina, was accounted for previous to the 1st December, 1817, and that no official duty then remained to be performed by Mr. Mumford, the principal assessor of that district. His said office, therefore, expired previous to his taking a seat in this House. The committee, therefore, respectfully submit the following resolution:

*Resolved*, That George Mumford is entitled to a seat in this House.

This report, together with the following communication from George Mumford, was committed



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ted to the same Committee of the Whole to which is committed the report in Samuel Herrick's case.

*Mr. Mumford's communication to the Committee of Elections.*

To the Hon. JOHN W. TAYLOR,

*Chairman of the Committee of Elections.*

SIR: Being about to defend myself against what appears to be a charge that implicates my honor and my character, I ask your attention whilst I make such an exposition as shall exonerate me from the imputation of having taken a seat in Congress contrary to the Constitution, or contrary to the principles of an honest man and a gentleman.

Before I enter into the argument, I will briefly relate the facts as far as they are recollected. I was appointed principal assessor at the commencement of the system of direct taxation, and continued until its termination, which happened at the last session of Congress, previous to which term I had discharged all the duties assigned me by the law, and had settled all my accounts. I did not write a letter to any person, saying that I had resigned the office, for it would at that time (whatever it might since) have been extremely ridiculous, as the office had left me. Some time, however, in the Spring, I received a letter from the Commissioner of the Revenue, written under the authority of the act of 3d of March last, which was calculated to clothe me with new power, so that any of the duties which might not have been finished should be completed. I do not recollect having performed any duty after the receipt of that letter. The election at which I was chosen was held on Thursday, the — of August. On the Thursday following the sheriffs of the three counties, viz. Rowan, Randolph, and Chatham, composing the tenth district of North Carolina, met, declared me to be duly elected, and gave me their joint certificate to that effect. Early in October I left home for Portsmouth, in New Hampshire, and when on my way I arrived in the city of Raleigh, and presented that certificate to the Governor, who, on receiving it, gave me a commission as a Representative, bearing date at that time. As I passed through this place, I intended to have remained here a few days, and meant to have called on the Commissioner of the Revenue, for the purpose of giving him all the information I could relative to the probable business that might arise in the course of the completion of the collection by the collector. This visit was due from respect to an officer under whose direction I had served, and which, though not official, would have been proper, and which should have been paid had it been in my power. Having remained at Portsmouth, out of my assessment district, during the intervening period, I returned to this place on the last day of November, and on Monday, the 1st of December, I appeared in the Representative Hall, was qualified by taking the oath to support the Constitution, and took my seat. When, as soon as the resolution inquiring what members held offices was adopted, I made a written communication of my circumstances to the chairman of the Committee of Elections.

This, sir, is the history. You will now please to indulge me while I make some remarks, and, in attending to them, you will be good enough to bear in mind that the inquiry is, whether I am a member of Congress or not; whether I am in the House or not—a question so plain, that it was not without some difficulty that I brought my mind into a train of reasoning to prove it. Indeed, if I had not so much at stake,

and if it was not that the question, plain as it appears to me, seems to be doubted by them, or some of them, whose opinions I am bound to respect, and whose votes may be injurious to my rights, I should hardly trouble you to discuss the question. It is more than doubted, for it appears to be taken for granted, that, if a person holds an office up to the time of his qualification as a member, it would affect his seat; and it further appears to be taken for granted, that, if a person has held an office at any time since the 4th of March, or subsequent to his election as a Representative, it ought to affect his seat; and that a person who has held an office must write a letter to some one, saying that he resigns it, otherwise the omission would be considered a proof that he continued to hold the office, notwithstanding his qualification and taking his seat.

I contend for the contrary of all these propositions, and hope I shall place them in so clear a point of view as to leave no doubt on your mind; and, in doing so, will give you the plain words of the Constitution, attaching to them the plainest and most obvious meaning of which they are susceptible. Be so good as to turn to it, and you will find that it is in the second clause of the second section of the first article, that the qualifications of a Representative are enumerated, viz: "No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen;" and these are all that are enumerated as qualifications. After going through with the House of Representatives, the Constitution begins with the Senate, and, in the third clause of the third section of the same article, enumerates the qualifications of a Senator in these words, viz: "No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen; and these are all that are enumerated as qualifications of a Senator. After having thus mentioned, in express terms, the qualifications of each; after having said what shall entitle a person to a seat as a Representative, and what a Senator; after having gone through everything relative to the person of each, until you get to the last clause of the sixth section, it then provides that "no Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding [continuing to hold] any office under the United States shall be a member of either House during his continuance in office." What, let me ask, was the object of this clause? What did the people intend to guard against, when they spoke these words? Let us inquire; and we cannot do so as effectually in any other way, as by seeing what would have been our situation if this clause, or any part of it, had been omitted in the Constitution. Suppose, then, that that whole clause had been omitted, what would have been the consequence? Would there have been anything to have prevented the same person from holding United States offices while he was a member while he held such offices? You must say not. Then may we not fairly conclude that that clause, taken altogether, was intended to prevent the occupancy of both at once: but suppose the latter part only, viz: "no person holding any office under the United States shall be a member of either

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House during his continuance in office:" suppose this had been omitted, what then would have been left that would have prevented a member from being appointed to, or from holding any office, except such as happened to have been created, or to have had their emoluments increased during the time for which he was elected? Surely nothing. Then may we not as fairly conclude that this part of the clause was intended, not to prevent the appointment of a member to an office, nor to prevent his acceptance of it; not to prevent the people from choosing an officer to be a member, nor to prevent his acceptance and qualification as such, but to provide that, although you may be appointed to an old office, although you may be elected to serve as a member, you shall not, during your continuance in office, be a member; you shall not, during your continuance as a member, be an officer? Now, sir, let us suppose that the first part of the clause only had been omitted, would there have been anything to prevent a member from being appointed to a new office as well as he can to an old one? As certainly not. This part of the clause was, therefore, intended to provide, not merely that a member should not hold a new office during the time he was a member, but that he should not hold it at all during the time for which he was elected. Indeed, sir, if the words that make the latter part of this clause, viz: "and no person holding any office under the United States shall be a member of either House during his continuance in office," had stood alone; if they had been intended to have contained all the condition that should have entitled a person to a seat, it would have been a forced construction, and not less forced than unreasonable and unjust to say that a person who had qualified and taken his seat as a member, ought to have it vacated, because he had held an office, without any proof or even a suggestion that he was then holding it; and especially after hearing him declare (as I do, and as I did to the committee) that he does not hold, or continue to hold, any office under the United States, and that he has not discharged any duties of any such office since his election as a Representative. Is it not indecorous, after a man has taken the oath to support the Constitution, and thereby qualified himself, and taken his seat as a member, to insist that he does hold an office, which is as much as to say that he has violated the Constitution and his oath, without having some evidence that he has discharged; or attempted, or wished to discharge, other duties than those of a member? But, sir, these words, viz: "and no person," &c., do not stand alone. They are not a part of a clause merely; they are a part of a sentence. They are included in a period with others, divided only by a semicolon. Their very situation and connexion proves that they were not intended to contain the only condition which should entitle a person to a seat as a member; that having been provided for in the second clause of the second section, as before mentioned. The object of that clause must have been simply to declare that no officer should be a member, and of course that no member should be an officer, viz., that no person shall be both at once; this must have been the intent and meaning of that part of the clause, because, if the other meaning, viz., that no officer should be a member until he had formally resigned, had been intended, would not the convention, instead of putting them where they are, have added them to the second clause of the second section, thus: "no person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years

a citizen of the United States, and who shall not, when elected, be an inhabitant of the State in which he shall be chosen; and no person holding any office under the United States shall be a member of either House during his continuance in office;" and even then, sir, it would have been very ambiguous, leaving a doubt whether you must resign, or whether your acceptance of a subsequent appointment did not, in itself, vacate the office. Here it may not be improper to remark that a resignation, viz., a written communication, saying that you resign, is a thing that does not appear to have been contemplated as necessary, it not having been either described or prescribed.

From all which, it seems to be clear that no person holding an office under the United States can be a member, and it is equally clear that no person being a member can hold an office. This will bring the question to what it ought to be, viz., whether a member does, by being appointed, and qualifying as an officer, vacate his seat; and whether an officer does, by being elected, returned, and qualified as a member, vacate his office; or, to reduce them to a single proposition, whether an officer or a member must resign the commission, office, or appointment which he holds, before he can be Constitutionally authorized to discharge the duties of one which is subsequently conferred upon him.

If, sir, you will now suffer yourself to resort to common sense and common usage, (for here the Constitution is silent,) I think you will find that a resignation would in many cases be as unnecessary as it would be absurd, and that in all cases when a person goes from one appointment to another under the same general authority, it is not necessary, though in many it is useful, and in all it is respectful. Leaving it to be necessary only in cases where the person wishes to withdraw from the authority under which he is acting, to place himself under his own or that of another, and then it is not necessary as a means of releasing himself from the employment, but that he may vacate it quietly, that he may save himself from the sentence of a court. Is it not the universal practice and understanding relative to all offices and appointments (which are incompatible) that the accepting the last, viz., the being Constitutionally and legally initiated into the last, virtually dissolves or vacates the first? Is there an exception, from a village council and constable to the Congress and President of the United States?

Suppose the United States, or the President and Senate, in the name and under its authority, was to appoint a member of the House of Representatives to be Secretary of War, could he not accept, qualify, and enter upon the duties of the War Department until he had either said or written to the House, or to the people of his district, or to some body, that he resigned his seat? He might have been appointed *pro tem.* before Congress had assembled; could he not act as Secretary until the House met and received his resignation? Suppose the Legislature of North Carolina should choose a member of the House of Representatives as one of her Senators, would the Senate refuse to receive him as such until he had proved that he had said, or sung, or written a resignation of his seat there? Would they have stopped their proceedings, after having suffered him to take his seat, to inquire into such a fact? Does the Constitution require it? Does common sense demand it? Suppose the House of Representatives had contended that, as he had not resigned, he was still a member of that body, could a

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justification have been found in the Constitution for an attempt to compel his attendance?

Suppose the people should elect a man who was a collector to be a Representative, would he, besides the qualifications enumerated in the Constitution, be obliged to produce proof that he had resigned his collectorship. To whom must he resign? Do you say, to the Secretary of the Treasury? He did not appoint him. Must it be to the President, or the Senate, or to both? May it be sent by mail? It may miscarry. Who proves that you did not send it? And is the Secretary of the Treasury to send to the House of Representatives and claim his once subordinate, and take him from the high and important duties assigned him by his constituents, because forsooth a letter did not happen to get on safely? And does the House intend to expel a member, because it does not appear that he has written a few lines to the Secretary of the Treasury informing him of what it is his duty to know, and what he cannot help knowing, viz., that the person who was collector is now a member, and of course no longer a collector, the two being incompatible by the Constitution, which he has sworn to support, and which it is supposed is before him? But suppose the people should choose one who had been a principal assessor, (I say had been;) one who had discharged the duties of his office as long as there were any to perform; one who had continued in that office as long as that office had continued to exist under the laws prescribing the duties of the assessor, must he still be considered to be an assessor because a law was passed at a session subsequent to the termination of all his duties, authorizing the Secretary of the Treasury to give the assessors new and distinct powers? Must he still be considered an assessor notwithstanding he has told you in the oath he has taken, qualifying himself as a member, that he holds no office, civil or military, under the United States? Has he not told you so, and does he not now declare to you the same thing in writing? Must he still be considered an assessor, whether he agreed to act under this last direction or not, (to the performance of the duties of which there was no compensation allowed?) Surely not. Shall I take the liberty to refer you to the act appointing assessors, and the act renewing their authority? On reading them you will find that all the duties were performed—they were obliged to be performed previous to the commencement of the last session of Congress, if done agreeably to any law then existing.

You will find, from the tenor of the law of the 3d of March last, that Congress acted under the impression that the power of the assessors and that of the Treasury Department had ceased, else why renew it? And having renewed it without affixing any compensation, was I bound to accept it—did I accept it? I say I did not; I performed no duty under it. And does not the very omission to perform the duties amount to a refusal to accept a new office?

But, sir, a resignation is necessary in some cases, as I have stated. A constable cannot fairly and quietly vacate his office by merely abstaining from the duties of it, or by refusing to act, nor can an assessor or any other officer; he must give notice to the authority that appointed him of his intention, or he will be liable to be sued. But suppose the same court who had appointed him constable should appoint him sheriff, what then? I say he must give notice of his intention to accept, and after acceptance and a regular initiation into the last office, the first is vacant;

for where is the necessity of a resignation, that is, a notice that he intends to quit his constableness, when that information is contained in the notice of acceptance of the sheriffalty? A judge cannot leave the bench to accept an appointment given him by another authority, without resigning, viz., without giving notice; he must discharge the duties assigned him until he gives notice to the person or persons authorized to fill the vacancy of his intention to withdraw; and he is liable if he does not, for otherwise it would be in his power not only to refuse justice, but to prevent any other person from being appointed to dispense it. But suppose the Legislature of a State was to elect one of its judges to be Governor, where would be the necessity of a resignation of his seat on the bench? If he came forward, and became qualified as Governor, all they would or could want to know would be whether he was Governor, and that, being before their faces, they would, as in duty bound, proceed to fill the vacancy on the bench. Suppose a Legislature were to elect one of the judges to be a Senator in Congress, it would, to be sure, be decorous for him to say immediately whether he intended to accept the Senatorship or not, that they might proceed, during their session, to fill the vacancy, but it is not an imperative duty; he may go through a summer's circuit, and appear in Congress hall on the first Monday of December afterwards, and take his seat. If he did not resign his seat on the bench, viz., say that he accepted the Senatorship to the Assembly, he could do so at any time to the Governor. If he did so while they were in session, they would fill the vacancy; if he did so to the Governor, he and his council would fill it *pro tem*. If he did not give this notice, he would be bound to perform the duty until he took his seat as Senator, and would be liable to be impeached if he refused or neglected to do so. Would the Senate, on his arrival, enter into an examination of his conduct? Would they require anything except an assurance that he was duly elected Senator, and that he came under the description of the third clause of the first article of the Constitution? They would not, for some of the States permit their State officers to be members of Congress, and some do not: it is a matter therefore that Congress have nothing to do with, and they would not trouble themselves to inquire into it. When a State officer has been elected, and has taken his seat as a member of Congress, his State is bound to know it, without notice from him by way of resignation; yet it often prevents difficulties, and is always respectful to give notice of your intentions; they cannot help knowing it, for he is, as to the office he held, politically dead.

Suppose an assessor wishes to retire from his office, he must resign; the Treasury Department must have notice of his intention, in order to provide that the public service shall not be injured, and the assessor would and ought to be liable in damages if he left his duty, the same as if he neglected it; but when the President and Senate have appointed him to a different and incompatible station, is not his acceptance of that a sufficient notice to the President that he is no longer an assessor, and would he not proceed to recommend another to fill the vacancy? Will any one contend that he would not or ought not until the assessor had resigned? Surely not. And is not the case much stronger when it is not merely the President and Senate (who are but servants of the people) that make the appointment, but the people themselves? Must the assessor go, or send, or write to some one of

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the other servants of the same master to ask him to permit the transaction? Is not the President bound to know and to provide for the vacancy in an office which they have, before his face, made vacant, and made it his duty to fill? Do you suggest that he might not know it? Would not the Commissioner of the Revenue, when he saw the officer with whom he had been in the habit of transacting business, sitting as a member of Congress, know it? Would he know that the office was vacant if he saw the officer laying dead? and would that be plainer than seeing him sitting as a member of Congress? And are they not equally incompatible so long as we have nature and the Constitution for our guide?

Does the President, or the Secretary of State, or of the Treasury, or the Commissioner of the Revenue, recognise me as an assessor? Would they not frown indignantly on the man so lost to every sense of propriety and of virtue as to attempt to continue to hold an office under their absolute control, after he had taken the oath to support the Constitution, and his seat as a member of Congress? Would they not be equally guilty to suffer it? Can they, now that I have taken my seat as a member of Congress, transact business with me as an assessor, without a violation of the oaths that they have taken? Would they not be liable to impeachment for continuing or attempting to continue a man in the execution of the duties of an office after that man had become a member of Congress? Is not that one of the ways in which an undue Executive influence could be exercised in this House? Besides, sir, in all cases where it is necessary that a resignation should be sent, it is equally necessary that it should be received, and as important that it should be agreed to, and all for the reasons before given, viz., to enable the officer to retire quietly. But to contend for this proceeding in all cases, would put it completely in the power of the heads of departments, by refusing to accept, or by omitting to acknowledge the receipt of a resignation, to prevent any one who held an office from taking his seat as a member of Congress. Now, sir, will it be contended that the President, or the Secretary, or the Commissioner, (neither of whom pretends to recognise me as an assessor,) intended, by saying in their report, "that no resignation had been received from Mr. Mumford," to fix upon him the stigma of having violated the Constitution and his oath, and to deprive him of his reputation, and his constituents of the Representative of their choice? Impossible. If I am asked why the resolution required information "whether any offices were at that time (12th December) so held," and why, by the answer given, "that no resignation had been received from Mr. Mumford," it is left to be inferred that he is yet in office, I could answer that it would not have been proper for the President (or the Secretary of State) to have expressed an opinion as to Mr. Mumford's qualifications as a member; he had simply to state the facts, viz., that Mr. Mumford had been appointed to an office heretofore, and that no resignation had been received. He could not with propriety say whether a resignation was or was not necessary, nor (when the extent of the question is understood) could it be expected that he would answer as to whether any of the members held offices at that time. No inference ought therefore to be drawn from the report on either of these points. Suppose, sir, that I had held an office after the 4th of March; what then? I was not elected as a Representative until August. But suppose that I had held an office up to the 1st of

December, does it follow that I held it up to the 12th, and that I continue to hold it now? Does my having held prove that I do hold?

Do you ask when I became a member? When does a man become a witness, or a juror, or a husband? Can they become so in an instant? Can you make a mathematical point? Is a man married until the last ceremony is performed, yet has he not privileges as a bridegroom; and have not witnesses, and jurors, and Representatives, privileges also? When does a quill become a pen? Before you have put your knife to it, it is a quill; at the instant it is nibbed, it is a pen, and not before.

But, after all, it may be asked, what great object of State policy is expected to result from knowing the offices, the time of appointment, of acceptance, and of resignation, by persons who are now members of Congress? Some invidious person might suppose that it was intended that the few names on the list should be known and held up to public view as suspected of Executive influence. Some spiteful enemy might insist that it was intended that Mr. Mumford (who was appointed, accepted, and served to the end in the unthankful and laborious office of principal assessor, and who, after having so served, had received, in his election to a seat in Congress, the reward due only to the faithful) should be so held up. But, inasmuch as there is another way of vacating an office besides dying, resigning, and dismissing; as there is such a thing as political death as to an office without political disgrace; and as the office which he held has become vacant in that way, it would seem to become the moral duty of those who have cast the odium to wipe it off. It may be said, however, that it was not intended or expected that he would have been touched in this business. Sir, I believe it; I am convinced that he was not thought of when that resolution was introduced and passed, but the ill-natured will not be disposed to view it so favorably, which leaves it to be lamented that a stone should have been thrown in the dark. Only suppose, sir, that, instead of looking back, that resolution had looked forward; and instead of asking the President to tell how many of the members he was secretly and unconstitutionally keeping in office, (for this is really the question,) it had been required of him to communicate whether any, and to which, of the members of the House of Representatives he had promised an appointment, designating the office, the time proposed, whether it was to be accepted, and how far a right to a seat was affected thereby, this stone would not have fallen on my head.

Sir, the cautious had better look forward for danger than backward. Being convinced that it could not have been intended to charge me with a wrong, by a resolution in which I am not named, nor to find me guilty by a report that does not say that I hold an office, I shall rest my case here; indeed, sir, I believe I should have paid a better compliment to your understanding and to that of the House, if I had rested it in silence, and I should have done so, but that the language of the resolution, affecting to be the language of the House, made it my duty to treat it with more attention. Sir, I became a member of Congress on Monday, the 1st day of December; I have held no office, nor have I discharged the duties of any since I became officially informed of my election, and, as I possess all the qualifications prescribed by the Constitution, I trust that you will so report.

Very respectfully, I am, sir, yours, &c.,

GEORGE MUMFORD.

FEBRUARY, 1818.

*Amendment to the Constitution—Colonial Trade.*

H. OF R.

## AMENDMENT TO THE CONSTITUTION.

A Message was received from the President of the United States, transmitting a report of the Secretary of State, in compliance with a resolution of this House, requesting information concerning the ratification by the States of an article which is printed in some late copies of the Constitution, but which, it appears, has not yet officially received the sanction of three-fourths of the States in the Union.

[The amount of the report from the Department of State, is, that the 13th article of the amendments to the Constitution of the United States has been—

Ratified by	1. Maryland,	December 25, 1810.
Do.	2. Kentucky,	January 31, 1811.
Do.	3. Ohio,	January 31, 1811.
Do.	4. Delaware,	February 2, 1811.
Do.	5. Pennsylvania,	February 6, 1811.
Do.	6. New Jersey,	February 13, 1811.
Do.	7. Vermont,	October 24, 1811.
Do.	8. Tennessee,	November 21, 1811.
Do.	9. Georgia,	December 13, 1811.
Do.	10. North Carolina,	December 23, 1811.
Do.	11. Massachusetts,	February 27, 1812.
Do.	12. New Hampshire,	December 10, 1812.
Rejected by	13. New York,	March 12, 1811.
Do.	14. Rhode Island,	December 15, 1814.
Do.	15. Connecticut.	
Uncertain,	16. South Carolina.	
Do.	17. Virginia.	

The Secretary of State, in the course of last month, addressed a letter to the Governor of Virginia, and to the Governor of South Carolina, requesting information as to any final decisions by those States in relation to this amendment, but had not received answers thereto on the 3d instant.]

The report lies on the table.

## MONDAY, February 9.

Another member, to wit; from the State of South Carolina, **ELDRED SIMKINS**, appeared, produced his credentials, was qualified, and took his seat.

**Mr. NEWTON**, from the Committee of Commerce and Manufactures, reported a bill "to continue in force, from and after the 30th of June, 1819, until the 30th of June, 1826, the fourth paragraph of the first section of the act "to regulate the duties on imports and tonnage;" which was twice read and committed.

**Mr. NEWTON** also reported a bill "to increase the duties on iron in bars and bolts, iron in pigs, castings, nails, and alum;" and to disallow the drawback of duties on the exportation of powder.

[The duties to be substituted for those now existing are, on iron pigs, fifty cents per hundred weight; on iron castings, seventy-five cents per hundred weight; on nails four cents per pound; on iron in bars and bolts excepting iron manufactured by rolling, one dollar per hundred weight; and on alum, two dollars per hundred weight.] The bill was twice read and committed.

**Mr. CLAIBORNE**, from the select committee to 15th CON. 1st SESS.—28

whom was referred the remonstrance of Major General Andrew Jackson, as one of the representatives of John Donelson, praying for the allowance of a certain quantity of land granted by the State of Georgia out of the land ceded by that State to the United States, at a period long anterior to said cession, reported a bill "for the benefit of Thomas Carr and others;" which was twice read and committed.

**Mr. WILLIAMS** made a report on the petition of Major General Jacob Brown, which was read; when **Mr. W.** reported a bill for the relief of the said Major General Jacob Brown, which was read and committed to the Committee of the Whole, on the bill for the relief of Major Loring Austin.

The **SPEAKER** laid before the House a letter from the Secretary of War, transmitting a report of the Third Auditor of the Treasury, in relation to the accounts of General Authur St. Clair, in obedience to a resolution of the House, of the 3d instant; which was ordered to lie on the table.

The **SPEAKER** also laid before the House the annual report of the Commissioners of the Sinking Fund, which was ordered to lie on the table.

The **SPEAKER** also laid before the House a letter from Richard Bland Lee, Commissioner of Claims, transmitting "a report of the facts" in the case of John Chalmers, of the City of Washington, with the evidence accompanying it, which was referred to the Committee of Claims.

## COLONIAL TRADE.

**Mr. FORSYTH**, from the Committee on Foreign Relations, to whom was referred so much of the President's Message as relates to the commercial intercourse of the United States with the British West India islands, North American colonies, and the petitions of sundry inhabitants of different parts of the District of Maine, upon the subject of the said intercourse, made a report, which was read; when **Mr. FORSYTH** reported a bill, supplementary to the act, regulating duties on imports and tonnage, passed the 27th April, 1816, which was read twice and committed to a Committee of the Whole. The report is as follows:

The committee to whom was referred that part of the President's Message which relates to the commercial intercourse of the United States with the British West India islands and North American colonies; and also the petition of the inhabitants of the different parts of the District of Maine, on the same subject, report: That, by the statement marked A, annexed to this report, it appears that the average amount of duties upon merchandise annually imported into the United States from the British West India islands and North American colonial possessions, from 1802 to 1816, excluding the period from the commencement of the restrictive system to the termination of the late war, exceeds two millions of dollars. The value of this merchandise, upon which these duties accrued, is supposed to be equal to seven millions of dollars per annum. The statement B, shows that the average annual amount of exports to the same places, principally of domestic production, up to 1817, excluding the time of the operation of the restrictive system and the continuance of the war, have exceeded six millions

five hundred thousand dollars. The statement C. shows that in the year 1815 the amount of duties on merchandise imported in American vessels from the British West India islands and North American colonial possessions was, to the amount of duties on merchandise imported in British vessels, as one to four; in 1816 as one to five and a half, or two to eleven. Taking the ratio of 1816 as the basis of calculation, and it is believed to afford the safest and most solid, as past experience shows a constant diminution of the amount of duties on goods imported in vessels of the United States, it is estimated, supposing the same proportion exists in the exports, that American vessels are used in the transportation annually of 2,177,924 dollars worth of merchandise, and British vessels 11,322,076 dollars worth of the most bulky articles of commerce, one half of which are of the growth, production, or manufacture of the United States. This inequality in the advantages of this commerce, to the injury of the navigating interest of this country, arises from the rigorous enforcement of the colonial system of Great Britain as to the United States, while it is relaxed to all other nations who are friendly to the British empire, and have colonial possessions. The portion of the commerce which is carried on in American vessels arises from accidental and temporary suspensions of the system which the Governors of the islands, &c. are permitted, under the pressure of dire necessity, to direct—an employment for our seamen and vessels precarious and momentary, rather irritating and tantalizing than profitable. This intercourse appears to the committee in the worst possible state, as it regards the navigation of the United States, while it is in the best for that of Great Britain. Justice and policy require, on the part of every wise Government, its best exertions to secure to its own citizens a perfect equality in the transportation of merchandise with the people of every nation respectively with whom it has commercial intercourse. Some Governments are governed by a policy more contracted, desiring to give to their navigators the exclusive transportation of their native products, while they desire to participate in carrying the productions of other countries. The committee are satisfied that the United States will never be governed by the selfish views of the latter class, but trust that it has not been, nor will it ever be, regardless of the just motives of the former. So far it is a duty to protect the navigating interest. This duty can be performed in relation to the subject of this report, by a conventional stipulation with Great Britain, formed upon the basis of reciprocity, or by legislative acts, operating exclusively against the British navigator engaged in this trade. With the first mode this House has no further concern than to know that the other branch of the Government has performed its duty. Repeated and hitherto unavailing applications have been made to the British Government. It is not, however, surprising that they have been unsuccessful, since no adequate motive at present exists to induce Great Britain to arrange this intercourse by convention. The offer contained in the articles annexed to this report, the most rational and reciprocally advantageous of any ever made, may be considered as dictated by a spirit of accommodation, which, under the pressure of adequate motives, might be fostered into a determination to grant all that we could reasonably ask or they be expected to yield. The three first articles, with some practicable modifications, would, by the adaptation of our commercial laws to the stipulation contained in them, confining the com-

merce strictly to those articles which Americans were permitted to carry, would place the trade upon as favorable grounds as could be expected. It would, no doubt, in a short time, be followed by a complete abandonment of the residue of the present jealous system of exclusion. The committee cannot, however, but approve the prompt rejection of this proposition, since these articles are connected with another altogether inadmissible, without a departure from what they deem the settled policy of this country, in relation to the trade with the Indians within its jurisdiction. The British ministry having assured the Government that these articles were all that could be granted, consistent with their opinions of the best interest of the British empire, there is no longer any hope of effecting this desirable object by negotiation. It remains for Congress to determine what course is to be pursued. If it were possible to separate the interest of one class of the community from that of another, it must be obvious that, however fatal to the navigator, the present state of things is not injurious to the cultivator of the soil. The productions of his labor are carried with facility to a ready market, and he receives in return all those articles which taste and habit have rendered necessary to his comfort. But this separation is impossible, and the necessary connexion between the two interests is apparent, when it is remembered that the competition of American with foreign navigation is essential to keep down the expense of transportation always paid by the cultivator and consumer. If this injury is not now apparent, it will ultimately be felt when the total ruin of the navigating interest will deprive us of the power to remedy the evil.

The committee forbear to press those important considerations of preparation for national defence so inseparably connected with this inquiry. They feel that there is on this point but one sentiment among the Representatives of the people and in the nation. Experience, prudence, gratitude for the glory shed upon our country, and the confident and delightful anticipation of future renown, all conspire to insure the necessary sacrifices for the preservation and interest of the seamen of the United States. This object, so far as it may be promoted by a participation in the commercial intercourse with the British American colonies, may be effected by a trifling and temporary sacrifice of the interests of agriculture. A slight knowledge of the situation of the British West India colonies authorizes the position that a commerce with the United States is essential to their prosperity, if not to their existence. The best market for the sale of their surplus products is found here, while the grain, provisions, and lumber, articles of the first necessity, received in return, are procured on terms infinitely more advantageous than they are to be had for their use in any other part of the world. But for occasional supplies of those articles from the United States, some of the islands would be deserted by their inhabitants, or a change produced in their agriculture, ruinous to their commercial interest. The people of the United States are in a very different situation. The British West India market is convenient, but not necessary to their accommodation. All the articles imported from them can be procured abundantly, upon terms equally advantageous, from other quarters. The annexed tables, marked D and E, show the amount of imports of the chief articles of their product from the British West Indies, &c., and the proportion it bears to the whole amount of imports of similar articles from other West India islands, &c.



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Many of these can be, and are procured from other quarters of the world, with which commerce in American vessels is not restrained. The demand for all can be supplied without a recourse to the British West India islands, and a supply from other quarters will be obtained by the employment of American vessels and American seamen, in common with the vessels and seamen of the country from which it may be brought. The only danger to be apprehended is, that the cultivator, losing the British West India market for the sale of his exports, would lose with it the ability to procure the commodities he formerly received in return. The extent of this danger depends upon the correctness of the position laid down; that this commerce is essential to the British West India islands, and only convenient to the United States. If the necessities of life can only be, or are procured on terms infinitely more advantageous here than anywhere else, it follows they will still be carried to the British West Indies, if not directly under a convention between the two Governments, circuitously through some mutually friendly port. It is perfectly true that the West India islands are capable of producing all that is necessary for their own subsistence; but this must be at the expense of their commercial importance; the abandonment of the most profitable, for, to them, an unprofitable cultivation. The general use and consequent high price of West India produce will insure a continuance of the usual course of agriculture, and will, as heretofore, operate a bounty upon the growth of breadstuffs in the United States. In favorable seasons and in peaceful times, Europe affords a surplus of human aliment, and supplies are to be found on the African coast of the Mediterranean; but these come loaded with the increased expenses and the dangers of the lengthened transportation of heavy articles. In the event of one of those desolating tempests, of but too frequent occurrence in these otherwise favored regions, destroying in an instant the labors of a life, and scattering the hoards collected by prudence for the subsistence of the colony, the distance from these places of relief renders timely assistance to the unfortunate impossible. The North American colonies cannot furnish these necessary supplies. The navigation of the principal river which carries the greatest portion of her stores to the ocean, is closed the better part of the year, and is not practicable at that season which is usually marked by these calamities. It is believed, too, that by far the largest portion of the apparent exports of Canada of breadstuffs, and even of lumber, &c., are carried from the United States. There must be at all times a dependence, to a certain extent, upon this country. And if a conventional relaxation is not produced by a prohibition of this direct intercourse, or the imposition of such charges as shall amount almost to prohibition, it follows that the trade will be circuitous. In this event the export trade, instead of being carried on exclusively in British bottoms, will be prosecuted in American vessels, and the vessels of that foreign nation in whose ports the parties may, by tacit arrangement, meet for the exchange of their commodities. The return cargoes, if of British growth, will, under the navigation act of the United States, be brought wholly in American vessels.

The only question remaining to be examined is as to the mode of effecting this desirable result. By total prohibition of all intercourse, or by burdensome charges on the trade, if confined to British vessels? The committee believe that the latter is to be preferred, and

have accordingly reported a bill. There is no essential difference between them, except as the one or the other is more or less inconvenient in its execution. The effect of onerous duties is more slow, but equally certain; the pressure will soon be felt, and the beneficial consequences gradually follow. The stream of commerce will easily and naturally flow into the desired channel, without the risk of those dangers which a sudden and violent effort to divert it might produce. A short time will prove the efficacy of this arrangement, and justify its continuance, modification, or abandonment. It is recommended, too, by its facility of execution. It requires no further alteration in the existing laws. It is not necessary to arm, for its enforcement, the petty officer of the customs with powers dangerous and odious to a free people.

For further and more detailed information on the subject of this report, the committee refer the House to a document marked F, furnished from the Department of State.

TUESDAY, February 10.

Mr. LOWNDES, from the Committee of Ways and Means, reported a bill for the relief of John Dillon, which was read twice and committed to a Committee of the Whole.

Mr. LOWNDES also reported a bill for the relief of Jonas Harrison, which was read twice and committed to a Committee of the Whole.

A Message was received from the President of the United States, in relation to furnishing the President's House and the care of the public buildings, which was read and referred.

Mr. ROBERTSON, of Louisiana, from the Committee on the Public Lands, reported a bill, supplementary to the several acts for the adjustment of land claims in the State of Louisiana, and Territory of Missouri; which was read twice and committed to a Committee of the Whole.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, made a report on the petition of a company of rangers, commanded by Captain James Biggar, in the years 1813 and 1814, which was read; when, Mr. J. reported a bill for the relief of a company of rangers, which was read twice and committed to a Committee of the Whole.

Mr. JOHNSON also reported a bill for the relief of Captain Benjamin Johnson and Captain Henry Gist, which was read twice and committed to a Committee of the Whole last appointed.

On motion of Mr. BUTLER, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of placing on the pension list, John Taylor, a soldier in the Revolutionary Army.

On motion of Mr. PIRKIN, the Committee of Ways and Means were instructed to inquire into the expediency of making provision, by law, for extending the term of credit for duties on articles imported from the West Indies.

On motion of Mr. HOPKINSON, the Committee on the Judiciary were instructed to inquire into the expediency of increasing the salaries of the Judges of the Supreme Court of the United States.

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*Pensions to Soldiers' Widows, &c.*

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On motion of Mr. ALEXANDER SMYTH, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of granting a pension to Daniel Hyden, a soldier of the Revolution, who received several wounds, and is now indigent, and unable to support himself.

The SPEAKER laid before the House, a letter from the Commissioner of the Public Buildings in the City of Washington, enclosing a copy of one of the original deeds of conveyance to the trustees of the United States, for the grounds in the said city, and copies of the correspondence, relating to the location of the public offices on the President's Square; which was referred to the committee on so much of the President's Message as relates to the Public Buildings, and the erection of additional edifices for the accommodation of the Executive Departments and of the Attorney General.

The SPEAKER also laid before the House, a report of the Secretary of State on the petition of Caze and Richaud, which was read, and ordered to lie on the table.

A message from the Senate informed the House that the Senate agree to the conference asked by this House, on the disagreeing votes of the two Houses, on the first amendment proposed by the Senate to the bill, entitled "An act making appropriations for the military service of the United States, for the year 1818," and have appointed managers on their part; and they have passed a resolution "relative to the distribution of the late edition of land laws," in which they ask the concurrence of this House.

The said resolution was read twice, and committed to the Committee on the Public Lands.

#### REMISSION OF FORFEITURE.

Mr. LOWNDES, from the Committee of Ways and Means, made a report on the petition of Nathaniel Goddard and others, formerly owners of the ship *Ariadne* and her cargo, which was read; when, Mr. L. reported a bill for the relief of the owners of the ship *Ariadne*, and of her cargo; which was read twice and committed to a Committee of the Whole. The report is as follows:

That the facts upon which the decisions of Congress will probably depend in this case appear to be correctly stated in the petition, and confirmed by the documents which accompany it. The *Ariadne* and her cargo have been condemned as prize of war, on the ground of her having on board, at the time of capture, a license which secured her from molestation by British cruisers on her voyage to Spain, after the declaration of war in 1812. The object of the petitioners is to procure the remission of the forfeiture which accrues to the United States.

It seems very certain that the exposure to condemnation, on the principles of national law, of a merchant vessel which employed an enemy's license or passport, was not generally admitted by our professors of law, nor known by the Legislature when the voyage in question was undertaken; under such circumstances, the petitioners urge that their error was unintentional, and their ignorance venial. They observe, that subsequent to the capture of the *Ariadne*, an act prohibiting the use of these licenses was proposed in Con-

gress and rejected; and they might add, that this rejection could not have resulted from an opinion that the trade was unlawful without a new expression of the legislative will, because Congress had provided for the case of a trade much more clearly illegal, under an enemy's license, to an enemy's port. Where the Executive department of the Government has the power to remit a forfeiture, it constitutes, in the opinion of the committee, in ordinary cases, an objection to legislative interference; but it would be hard to apply this principle to a case in which (as is stated in the letter of the Secretary of the Treasury which accompanies this report) "it has been determined by the Executive authority that relief cannot be granted by the Executive department." The Secretary adds, in the same letter, that if the penalty had been within the jurisdiction of the Secretary of the Treasury, it would have been remitted upon proof of the facts stated in the petition. Upon the principles upon which remission has been ordinarily granted by the Department, the committee submit a bill for the relief of the petitioners.

#### PENSIONS TO SOLDIERS' WIDOWS, &c.

The House then resolved itself into a Committee of the Whole, on the bill "concerning half-pay pensions, &c., and for other purposes."

The first section of the bill goes to equalize the pensions allowed for services in the Revolutionary and late war, and to assimilate the mode of paying them.

A motion, which was under consideration when this subject was before the House on Friday last, to amend the bill, having been agreed to, Mr. BURWELL moved to strike out the second section of the bill, which is in the following words:

"That in all cases where provision has been made by law for five years' half-pay to the widows and children of officers and soldiers who were killed in battle, or who died of wounds received in battle, or who died in the military service of the United States, during the late war, the said provision shall be continued for the additional term of five years, to commence at the end of the first term of five years in each case respectively, making the provision equal to ten years' half-pay."

This motion was opposed by Mr. JOHNSON, of Kentucky, Mr. WALKER, of North Carolina, and Mr. SOUTHDAR; and was supported by Mr. LIVERMORE.

Mr. JOHNSON, of Kentucky, said he had ascertained the number of widows who had been placed on the pension list for five years' half-pay, in consequence of the death of their husbands while in the military service of the United States. These data would furnish calculations as accurate for the annual appropriation which would be necessary to meet the expenditure, as the duties of legislation required. The list included all the cases of orphans whose mothers had married again, or died before the decease of the soldier, whose service constituted the claim. The whole number now on the pension list, said Mr. J., is fourteen hundred and four, and the number of applicants whose papers are defective, and suspended for additional proof, or which have not been acted on, is fifty, making together fourteen hundred and fifty-four cases. These, at \$48 per

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annum each, the sum allowed in the cases of private soldiers, if extended for five years beyond the term of the present provision, will amount annually to nearly \$70,000. As the number of officers is small, in proportion to that of privates, it will be a liberal allowance, in the calculation, if we estimate the sum at \$100,000 per annum, which will be amply sufficient to meet the claims of those who have been placed on the pension list, and whose papers have been presented for adjudication.

It is impossible to ascertain the number entitled to the provision who have not yet applied; but it will be universally admitted, that, of the whole number embraced in the law, a very small proportion remains yet to be presented—so small a proportion, indeed, as not to require any serious argument, or to present any serious difficulty. The act providing for the relief of the widow and the orphan, has been in existence for several years. They are known to be needy, and most of them have found active and intelligent friends to prepare and present their respective cases. Very few, therefore, remain to be adjusted. The annual sum of \$100,000, then, will undoubtedly be found entirely sufficient to provide relief for the widows and orphans of fourteen hundred and fifty-four patriotic citizens, who have sacrificed their lives in defence of the country. This sum to each individual, we know, is small; but to the destitute, the helpless, the disconsolate subjects of this bounty, it will prove an essential benefit. It will alleviate their afflictions, at best too severe. It will bind up the broken hearted and pour into their bleeding wounds the balm of consolation. Bring this unfortunate groupe in review before us; let the image, not of imaginary but of real bereavement, and consequent distress, be drawn in its full magnitude before our eyes. Behold fourteen hundred and fifty-four weeping widows, and more than a thousand helpless orphans, in all the despondency of woe; and while their sighs and groans penetrate the heart, and extort from the eye a sympathetic tear, remember that the blessings of independence, which we enjoy, have been sealed with the blood of those whose glorious, though untimely deaths, have left these widows and orphans thus comfortless. They are the widows and the orphans of the great American family—they belong to the Republic, and it is our solemn duty to provide for them. They have claims upon our gratitude that we have not satisfied; we are happy in the return of peace, but the widow remains sorrowful; no class of our citizens has such imperious claims upon our charity and our justice.

If we had to tax labor and poverty to maintain them, objections might be urged, but this is not the case; the annual appropriation for this desirable object would be small in comparison to the revenue and present resources of the nation. The whole system of internal taxes had been repealed, and the revenue from the duties on importations from foreign countries, and other miscellaneous resources, amounted, annually, from \$25,000,000 to \$30,000,000. The wealth of the nation yields

this rich harvest without compulsion, without taking from the hand of labor the bread which it has earned. And by this happy condition of our country we have resources sufficient to discharge our obligations to the sufferers in the late war, without imposing burdens upon the people; and the faithful discharge of these obligations will gratify the wishes of the American people—nothing less will satisfy them. A virtuous people, fond of liberty, have not forgotten the services nor sacrifices of those who have fallen in the second conflict for independence; nor will the cry of the widow be heard in vain. But I have asserted that they have claims upon our justice; justice requires that equal claims or sacrifices should meet with equal rewards. In the case of the wounded soldier, we have made provision for him during life. In the case of a private soldier, the greatest disability, the loss of a hand or a leg, will entitle him to the sum of \$96 per annum, in the form of a pension during life. Where the soldier has fallen in battle, or has died in the service, his widow has about \$48 per annum for five years, provided she remains a widow; for, let it be recollected, that, in case of marriage, the pension ceases. Compare the claims of the wounded soldier and helpless widow; who can deny their equal claim? Who can estimate, in money, the loss of limbs, or the loss of a bosom friend to the female character? We do not ask for a remuneration, but a small annual stipend for a few years, that pinching poverty may not drive the starving widow nor the helpless orphan into the streets to beg for bread; and here the poor wounded soldier would have an advantage over the widow, for he could live by the charity of the world, if not provided for by the protecting gratitude of his country; but the destitute female, the widow, would have to languish and die, or, by seeking the bounty of the world, must subject herself to insults, and, in many cases it would lead to more disastrous consequences. It here appears evident that we might contend for a permanent provision for the widow during her widowhood; but we contend only for five years of her widowhood, in addition to the five years already allowed her. In the State of New Jersey, which suffered so much during the Revolutionary war, I am informed by a worthy member from that State, and a worthy patriot of that revolution, (Mr. SOUTHARD,) that the widow was placed upon the pension list for life, or during widowhood. This noble example would be worthy of our imitation. Such bounty will not be extended in vain; it has its great reward. We have provided pensions for upwards of three thousand five hundred wounded soldiers, which require an annual appropriation of about \$400,000; then I hope that we shall not refuse this temporary relief to the widow and her helpless offspring. We are called upon annually to vote millions for other objects—for the army, for the navy, for fortifications, for the civil list; these appropriations are connected with the safety of the country. The same liberal policy should induce us to sanction this provision; for however impe-

rious my duty to vote for other appropriations, none would be so grateful to my feelings as this, and none, in my opinion, will produce more happy consequences to the country.

Mr. SOUTHWARD said, that from the strong opposition made a few days since, when this subject was under consideration, he was of opinion that the section would be stricken out; but he was opposed to the motion, and in favor of retaining the section. It was not so much his intention to inquire into the amount necessary to meet the object contained in the bill, as the justice and equity of the proposed measure, for these are principles paramount to every other consideration. In regard to the laws relative to the enlistment of soldiers for the late war, Government had fulfilled its obligation with perfect fidelity. But, said Mr. S., permit me to inquire, whether, in point of equity, all has been done that ought to be done, for the relatives of the deceased soldier. The Government, or rather Congress, are representatives of the great mass of the people; and, as such are, or ought to be, the faithful guardians of those helpless widows and feeble children, whose husbands and fathers have perished in battle, contending for the liberties of our country. I would ask, sir, if the services of the soldier have been fully rewarded? Does not equity demand something more at our hand? Who can fully estimate the value of a soldier in arms in the day of imminent danger? Without them, your politicians would be useless, and your placemen would bear their parchment in vain.

The parties, if I may so call them, interested in this important question, exhibit a very striking contrast. On the one hand, I see a powerful Government, a wealthy nation, with a treasury amply replenished, equal to all the demands of justice and humanity. On the other hand, I behold weeping widows, helpless orphans, in a land of plenty, crying aloud for bread. Viewing, as I do, the merit of our warriors; their glorious achievements during the late war; the high character which this nation sustains, both at home and abroad, the fruit of their valor; I must regard those men as worthy the gratitude of their country, and the needy families of those who lost their lives in the conflict, as entitled to the attention of the Government. We are assured by the honorable gentleman from Kentucky, who reported the bill, that \$100,000 will meet the object, and cover the whole expense. May not this be called a small sum, when compared with the great and important object to which it will be applied, and the consequent benefits that must and will result from it?

Sir, said Mr. S., in monarchical and despotic Governments, injustice and oppression may answer; but in a Republic, a different line of conduct must be pursued. The interest of despots is to lay upon the body of their subjects the iron hand of poverty, and by oppression to extort obedience and command their services. But our interest is to be just and liberal to that class of citizens on whom the liberty and independence of their country so much depend. Do ample justice

to surviving widows, and they will teach their sons to revere the Government that has nourished them in their feeble infancy—that country which became their protector when deprived of a father's guardian care.

The observation of the gentleman from Kentucky, (Mr. JOHNSON,) relative to the policy of New Jersey at the close of the Revolutionary war, I have no doubt had allusion to myself, as the person with whom he had conversed upon the subject. I confess, sir, when I first cast my eye cursorily upon the bill, the policy of the measure seemed somewhat doubtful; but, on more mature deliberation, the principle of the bill presents itself to my mind in a different light. From a review of the Revolutionary war, connected with its glorious consequences, and firmly persuaded that the same spirit which actuated the soldiers of the Revolution, animated also the army of the late war, in defending the rights that their fathers won, I must regard the provision contemplated in the bill as perfectly consonant with justice and wisdom. Well knowing the just and liberal policy adopted by the Legislature of New Jersey at the close of the Revolutionary war; having witnessed its beneficial effects, as developed in the operation, both in relation to the regular army and the militia; and recognising the same principles in this bill as it now stands, I am opposed to the motion for striking out the second section, which has regard to the widows and orphans of the militia who have fallen in the country's defence.

Mr. S. observed, that at the close of the Revolutionary war, the Legislature of New Jersey placed on the pension list of the State, the widows of those who had fallen in battle, or who died in the service, and gave them half-pay for life, or during their widowhood. Considering, said Mr. S., the services rendered and sufferings endured, we deemed the reward not too great for us to give, nor for them to receive. The struggle was arduous; the contest long; and the prize contended for immense. The pensions have been paid, and the difficulties, which were only imaginary, have vanished. The annual amount called for, has gradually decreased. Few now remain in the land of the living, and in a short time not one will remain to claim the bounty of the Government. In this provision, every patriot of New Jersey is happy in the reflection, that, without injury to ourselves, we have done ample justice to the bereaved. Let the same course be adopted by the General Government, and you will bind the affections of the rising generation to the Government, while you give a pledge of your beneficence to the future defenders of our rights, which will afford the most perfect security to the liberties of the nation against all foreign aggressions. Let tyrants oppress their slaves, and compel them to fight the battles of their oppressors: but such a system of policy will not suit the genius of a Republic. Gratitude is due to the men who fight your battles and maintain your liberties. Let a liberal policy guide the Councils of our nation, and you will

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attach bravery and merit to your standard. Regard the widow of the fallen soldier; feed and nourish his orphan children; let the Government become their guardians; impress these ideas on the public mind; let them realize your bounty; and your liberties will be secure.

I hope in God, sir, we may never witness another war; but should we ever be so unfortunate, be assured that the policy suggested in this bill will be found salutary; while a contrary course will appal the spirit of the country, and endanger, if not entirely subvert, your liberty.

Nine-tenths of the men who fight your battles, if not indigent, are far from being affluent in their circumstances. The money proposed to be drawn from the Treasury will be well applied. It is not to be exported to foreign countries, nor shut up in private coffers. It will circulate freely among you, while it brings relief to the distressed; and when called for by the Government, will be freely returned by those who will have benefitted by its circulation.

These observations, Mr. S. said, he had felt it his duty to make on this interesting question, and hoped the section would not be stricken out.

The motion to strike out the section was negatived, &c., ultimately, by a considerable majority.

Mr. HITCHCOCK moved to amend the section so as to extend the continuation of the pension to motherless children of deceased soldiers under sixteen years of age, as well as to the widows.

This motion was negatived.

The third section is in the following words:

"That in all cases where any soldier of the regular Army shall have died while in the service of the United States, in the late war, or in returning home from said service, leaving a widow, such widow shall be entitled to receive the sum of forty-eight dollars annually, for the term of five years, as a half-pay pension; and in case of the death or intermarriage of said widow, before the expiration of the term of five years from the death of the husband aforesaid, the half-pay for the remainder of the term shall cease."

Mr. FINDALL moved to strike out of this section the words "or intermarriage;" which motion was supported by the mover and Mr. TAYLOR, and opposed by Messrs. JOHNSON, HARRISON, and T. M. NELSON. Mr. SMITH, of Maryland, also joined in the debate on the general merits of the bill, to which he was opposed.

Mr. T. M. NELSON moved to amend this section so as that the pensions to be granted by it should take date from the 4th day of March last. Negatived.

Mr. COBB moved to strike out the above section from the bill; which motion was supported by himself, and opposed by Mr. HARRISON, and was negatived by a very small majority.

The fourth section is in the following words:

"That in all cases of half-pay pensions, embraced by this act, and all other acts of Congress making provision for half-pay pensions, the same shall extend to all cases where the party died within six months after his return home, of diseases contracted in the service during the late war with Great Britain."

Mr. LINN moved to strike out this section;

which motion was opposed by Mr. BARBOUR, and Mr. COMSTOCK, and was negatived by a large majority.

Other amendments were proposed and variously decided, on which, as well as those already noted, considerable desultory debate took place.

The fifth section of the bill provides that the widow of any officer or soldier killed in battle or who died in service during the Revolutionary war shall have a pension, if of a soldier, of forty-eight dollars per annum, if of an officer, of one hundred dollars per annum.

The sixth section provides that in all cases where an indigent mother has lost her son in battle, if he has left no widow or children, she shall receive a pension of forty-eight dollars per annum for five years.

No attempt was made to strike out these two sections.

After having gone through the details, the Committee rose and reported the bill to the House, and the House adjourned.

WEDNESDAY, February 11.

Mr. PETER presented a petition of sundry inhabitants of the south-east part of the City of Washington, praying that an act may be passed, authorizing the erection of a toll bridge across the Eastern Branch of Potomac river, from Smallwood's wharf.—Referred to the Committee for the District of Columbia.

Mr. WILLIAMS reported the bill from the Senate, entitled "An act for the relief of Isaac Briggs," with an amendment, which was read, and, together with the bill, committed to a Committee of the Whole.

Mr. SMITH, of Maryland, from the Committee of Ways and Means, made a report on the petition of John Wilmot, which was read; when Mr. S. reported a bill for the relief of the said John Wilmot, which was read twice, and committed to a Committee of the Whole.

Mr. HERRICK, from the Committee on Private Land Claims, reported a bill for the final adjudication of the claims to land, in the Missouri Territory, of the legal representatives of Elisha and William Winter, Gabriel Winter, and the legal representatives of Jacque Clammorgan; which was read twice, and committed to a Committee of the Whole.

Mr. SILSBEE, from the Committee on Naval Affairs, to whom was referred the bill from the Senate, entitled "An act in addition to an act giving pensions to the widows and orphans of persons slain in the public or private armed vessels of the United States," reported the same without amendment, and the bill was committed to a Committee of the Whole on Monday, the 23d instant.

On motion of Mr. MILLS, the Committee of Ways and Means were instructed to inquire into the expediency of exempting from duty the articles of Sicilian sumac and merino wool, imported into the United States.

The SPEAKER laid before the House a letter

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from the Secretary of War, transmitting a report, prepared in obedience to a resolution passed at the last session, concerning contracts for the supply of fire-arms, the expenditure at each of the national armories, and the number, species, and quality of arms manufactured and repaired, at said armories; which was read, and ordered to lie on the table.

The engrossed bill for the remission of duties upon stereotype plates, and upon bibles and testaments in foreign languages, imported by societies or associations, for the gratuitous distribution of the Holy Scriptures, was committed to a Committee of the Whole to-morrow.

#### PENSIONS TO SOLDIERS' WIDOWS.

The House then took up the report of the Committee of the Whole on the bill concerning half pay pensions, &c, and agreed, successively, to all the amendments thereto reported by the Committee.

Mr. HARRISON then moved to strike out the 3d section of the bill, which provides, "that in all cases where any soldier of the regular Army shall have died while in the service of the United States, in the late war, or in returning home from said service, leaving a widow, such widow shall be entitled to receive the sum of forty-eight dollars annually for the term of five years, as a half-pay pension; and in case of the death or intermarriage of said widow, before the expiration of the term of five years from the death of the husband aforesaid, the half-pay for the remainder of the time shall cease;" which motion Mr. H. subsequently withdrew; when

Mr. COLSTON renewed the motion to expunge the section; on which considerable debate took place.

The motion was supported by Messrs. MOORE, of Pennsylvania, and COLSTON, and opposed by Messrs. TAYLOR of New York, HOLMES, of Massachusetts, SPENCER, COMSTOCK, OGLE, WALKER of North Carolina, T. M. NELSON, JOHNSON of Kentucky, and HARRISON; and finally negatived—yeas 48, nays 99, as follows:

YEAS—Messrs. Abbott, Adams, Ball, Barbour of Virginia, Bateman, Blount, Boss, Burwell, Campbell, Cobb, Colston, Desha, Edwards, Forsyth, Garnett, Hall of North Carolina, Hasbrouck, Hendricks, Hogg, Holmes of Connecticut, Hopkinson, Huntington, W. Maclay, McCoy, Marchand, Marr, Moore, Orr, Owen, Pitkin, Quarles, Rhea, Scudder, Slocumb, Bal. Smith, J. S. Smith, Stewart of North Carolina, Storrs, Tarr, Terrill, Terry, Townsend, Trimble, Tucker of Virginia, Tyler, Westerlo, Williams of Connecticut, and Williams of North Carolina.

NAYS—Messrs. Allen of Vermont, Anderson of Pennsylvania, Anderson of Kentucky, Barber of Ohio, Bayley, Beecher, Bellinger, Bennett, Bloomfield, Bryan, Butler, Claggett, Claiborne, Comstock, Crafts, Cruger, Culbreth, Cushman, Darlington, Earle, Ellicott, Ervin of South Carolina, Floyd, Folger, Forney, Fuller, Gage, Hall of Delaware, Harrison, Herbert, Herkimer, Hitchcock, Holmes of Massachusetts, Hubbard, Hunter, Irving of New York, Johnson of Kentucky, Kinsey, Kirtland, Lawyer, Linn, Little, Lowndes, McLane, W. P. Maclay, Mason of Massachusetts, Mercer, Merrill, Mid-

dleton, Morton, Moseley, Mumford, Murray, Jeremiah Nelson, T. M. Nelson, New, Newton, Ogden, Ogle, Palmer, Parrott, Patterson, Peter, Pindall, Poindexter, Porter, Reed, Rich, Richards, Ringgold, Robertson of Louisiana, Ruggles, Sampson, Savage, Sawyer, Sergeant, Settle, Seybert, Sherwood, Silsbee, Simkins, Southard, Spencer, Strong, Stuart of Maryland, Tallmadge, Taylor, Tompkins, Tucker of South Carolina, Upham, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Whitman, Williams of New York, Wilkin, and Wilson of Pennsylvania.

Mr. HARRISON then moved to amend the section, by making the pension commence from the first of March, 1817, instead of from the death of the husband; on the ground that it would be more beneficial to the widow and convenient to the Treasury to pay the five years' pension gradually, than in a gross sum, which would be payable under the section as it stood.

This motion was negatived—ayes 44.

Mr. HITCHCOCK proposed so to amend the bill, as to confine the pensions to the widows of such soldiers as enlisted prior to the 10th of December, 1814; which motion was agreed to without opposition.

The question was then taken on ordering the bill to be engrossed and read a third time, and decided in the negative—yeas 65, nays 79, as follows:

YEAS—Messrs. Anderson of Kentucky, Barber of Ohio, Beecher, Bellinger, Bloomfield, Bryan, Butler, Campbell, Colston, Comstock, Cruger, Culbreth, Earle, Ellicott, Ervin of South Carolina, Floyd, Forney, Fuller, Gage, Harrison, Hendricks, Herkimer, Hitchcock, Holmes of Massachusetts, Hunter, Irving of New York, Johnson of Kentucky, Kinsey, Lawyer, Little, Marr, Mason of Massachusetts, Mercer, Merrill, Moseley, Murray, T. M. Nelson, New, Ogle, Palmer, Parrott, Patterson, Pindall, Porter, Quarles, Reed, Ringgold, Robertson of Louisiana, Silsbee, Simkins, Ballard Smith, Southard, Spencer, Stuart of Maryland, Tallmadge, Trimble, Tucker of South Carolina, Walker of North Carolina, Walker of Kentucky, Wallace, Wendover, Whiteside, Whitman, Williams of New York, and Wilkin.

NAYS—Messrs. Abbott, Adams, Allen of Massachusetts, Allen of Vermont, Ball, Barbour of Virginia, Bateman, Bayley, Bennett, Blount, Boss, Burwell, Claiborne, Cobb, Crafts, Cushman, Darlington, Desha, Drake, Edwards, Folger, Forsyth, Garnett, Hale, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hogg, Holmes of Connecticut, Hopkinson, Huntington, Kirtland, Linn, Livermore, Lowndes, McLane, W. Maclay, W. P. Maclay, McCoy, Marchand, Moore, Morton, Mumford, Jeremiah Nelson, Ogden, Orr, Owen, Pitkin, Poindexter, Rhea, Rich, Richards, Robertson of Kentucky, Ruggles, Savage, Scudder, Sergeant, Settle, Seybert, Shaw, Sherwood, Slocumb, J. S. Smith, Stewart of North Carolina, Storrs, Strong, Tarr, Taylor, Terrill, Terry, Tompkins, Townsend, Tucker of Virginia, Tyler, Upham, Westerlo, Williams of Connecticut, Williams of North Carolina, and Wilson of Pennsylvania.

So the bill was rejected.

Mr. STORRS, under a belief that the bill had been rejected from a dislike to the 3d section, or some other feature, and that, divested of the ob-



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jectionable provisions, the bill would pass, moved to reconsider the vote just taken, that the bill might be modified and rendered acceptable to the House.

This motion, after some discussion, was negatived—ayes 53, noes 86; and the House adjourned.

THURSDAY, February 12.

A Message from the Senate informed the House that the Senate have passed a bill, entitled "An act for the relief of Martin Warner;" in which they ask the concurrence of this House.

The said bill was read twice, and committed to the Committee of Commerce and Manufactures.

Mr. SERGEANT offered a joint resolution, directing the Judges of the Supreme Court to be furnished each with a copy of Wait's State Papers; which was twice read and ordered to be engrossed for a third reading.

Mr. EDWARDS, of North Carolina, offered the following resolution for consideration:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of making some provision for the widows of such soldiers of the militia as died after reaching their homes in consequence of diseases contracted whilst in the service.

Mr. E. said, that a principle similar to that contained in this resolution was contained in the bill which was yesterday rejected, and he believed a large majority of the House were in favor of that provision, but had voted against the bill on account of other provisions, highly objectionable, which it contained. His motion was intended again to bring the subject before the House.

The motion was agreed to.

Mr. HARRISON gave notice that on to-morrow he should ask leave to introduce a bill to extend for a further term of five years the pensions granted to the widows and orphans of officers and soldiers of the militia who were killed in battle, or died in service during the late war. He pursued this course because he did not wish to trouble the Military Committee with it, they having already reported favorably on it, among other objects, in the bill yesterday rejected, and having at present enough of other business on their hands.

Mr. SMITH, of Maryland, after adverting to the unfavorable report of the Committee of Claims, on the petition of Samuel Hughes, which had been laid on the table, moved a resolution relative to the same, which, after some discussion between Mr. WILLIAMS and Mr. SMITH, was agreed to, directing the Secretary of the Navy to lay before the House any information he may possess relative to the destruction by the enemy of Samuel Hughes's cannon foundry, employed in the service of the department, the quantity of cannon and shot on hand at the time, what measures, if any, were adopted by the department for its protection, what time the cannon and shot were permitted to remain at the foundry after being proven, &c.

Mr. McLANE offered for consideration the following resolution:

*Resolved*, That the President of the United States be requested to communicate to this House a letter from Arthur Lee to the Committee of Foreign Relations, dated at Paris, October 6, 1777, and also a letter from Benjamin Franklin, Silas Deane, and Arthur Lee, to the Committee of Foreign Relations, dated 7th September, 1777, if such letters are now to be found, and, if not, that he communicate to this House whether such letters ever were received, the contents thereof, and in what manner they have been lost.

On inquiry by Mr. FORSYTH into the object of this motion, Mr. McLANE stated, that he wished to have these papers with a view to a proper decision on certain claims of the heirs of Caron de Beaumarchais. He had understood, from authority that he fully relied on, that such letters had been received, and had been in the Department of State, affording more information on the subject of these claims than any documents in possession of the House, &c.

The motion was agreed to, *nem. con.*

On motion of Mr. CUSHMAN, the Committee on Military Affairs were instructed to inquire into the expediency of making further provision by law to enable any soldier entitled to bounty land who has received an honorable discharge or a military land warrant, and is unable to produce the same, to obtain a patent.

On motion of Mr. BASSETT, leave was given to the committee on the claim of the heirs of Caron de Beaumarchais to exercise the power of sending for persons and papers.

#### BOUNDARY LINES.

Mr. BURWELL, in rising to make a motion, said that there was a subject referred to the Committee of Ways and Means which would probably excite some notice when the general appropriation bill should be reported, and respecting which his motion was intended to procure some information which might be necessary to a correct understanding of it. Under the Treaty of Ghent, certain Commissioners had been appointed to ascertain the boundary lines between the United States and the British northern provinces. By the estimates of appropriations submitted to the House, it appeared that the House was called upon to appropriate \$82,666 to defray the expenses of these Commissioners for the present year, of which fifty thousand dollars was for "contingent expenses" for the present and past year. At the last session there had been appropriated thirty-four thousand and some odd hundred dollars for this object. He thought he was perfectly warranted in saying, that it would require, under the present plan, from five to ten years to complete the survey of the boundaries. If so, the expenses of ascertaining them would amount to a larger sum than the object could be worth. There was another point on which the House would probably desire information; which was the appointment of agents to the three commissions, with salaries equal to those of the Commissioners. Now, Mr. B. said, he had examined

the different articles of the treaty, and he could find in it no authority given to the Commissioners to appoint these, though a power was expressly given to them to appoint secretaries. One of these boards also had ceased to exist, he presumed, as the gentleman who had been the Commissioner on the part of the United States was now a member of this House; notwithstanding which the House was called upon to appropriate for the three boards. To obtain information on these points, he moved the following resolution:

*Resolved*, That the Secretary of the Treasury be directed to lay before this House a statement of the moneys paid for defraying the expenses of the Commissioners under the fourth, sixth, and seventh articles of the Treaty of Ghent, specifying the items of expenditure and the claims at this time presented for payment.

The resolve was agreed to, *nem. con.*

#### MILITARY APPROPRIATIONS.

Mr. LOWNDES, from the Committee of Conference on the disagreeing votes of the two Houses on that part of the general military appropriation bill which respects extra pay to officers of brevet rank when on separate service, made a detailed report, stating the views of the committee of this House adverse to that appropriation, and the argument by which the conferees on the part of the Senate sustained their preference of it. It appears that the committees of the two Houses parted without being able to come to an agreement, each retaining its own opinion.

After the reading of the report, Mr. LOWNDES, remarking that the views taken of the subject by the committee rendered unnecessary the attempt to elucidate it by any further remarks from himself, moved that this House do adhere to its disagreement to the amendment of the Senate which proposes an appropriation for the brevet extra pay.

Mr. MERCER, suggesting that the length of the report was such as to prevent a due comprehension of the force and scope of its reasoning by hearing it once read, therefore moved that the report lie on the table and be printed; which motion was agreed to. The report is as follows:

The Committee appointed on the part of the House of Representatives to confer with a committee of the Senate, on the subject of the disagreeing votes of the two houses, on the amendment of the Senate to the bill making appropriations for the military service of the United States for the year 1818, have met the committee of the Senate, in pursuance of their appointment. They considered it right to offer to the committee of the Senate the following exposition of the views which they supposed the House of Representatives to have taken in disagreeing to the amendment of the Senate, in the hope that it might obviate or lessen the difficulties which separated the two Houses.

By the construction of the law of 1812, which the committee of the House of Representatives believed to be adopted by that House, the pay of a brevet commission is due only when the officer exercises a command to which his lineal rank would not entitle him. To such command, under the President's general

order of 1816 and 1817, he may be assigned, upon special and temporary occasions. It is believed, from the amendment proposed by the Senate, that their construction is not very different from this. The construction of the War Department, however, is very different. The committee of the House of Representatives consider it wrong to explain or amend an act by which salaries or pay is regulated by the provisions of an appropriation law. But if it were right, the short debate which occurred in the House of Representatives on the Senate's amendment, sufficiently proves, that that amendment might change a little the ground of argument, but would not terminate the controversy.

As an amendment of the law of 1812, the provision proposed by the Senate is, therefore, unsatisfactory, and to insist upon an appropriation previous to an amendment, is to insist either that the one body shall conform its appropriations, not to its own construction of existing laws, but to that of the other body, or that both shall adopt, what both believe to be erroneous, the construction of the Executive Government.

The committee of the House of Representatives believe, that respect for the rights of both Houses requires that the act of 1812 should be amended, by defining, more precisely, the contingencies in which pay shall be due, or, if this be impracticable, by authorizing it in all cases, or in none. The bill which passed the House of Representatives, at its last session, may explain the amendment which it then preferred; but it now insists only that the amending law should first determine to whom pay is due, before an appropriation should be made for its payment.

The committee of the House of Representatives consider it necessary to a fair and free legislation, that appropriations, in regard to the propriety or the extent of which the two Houses find, after deliberation, that they still differ, should be separated from those which both consider as necessary to the public service. If either branch of the Legislature determine that it will not make the great mass of necessary appropriations while there remains one unprovided for, which it considers to be proper, it throws upon the other branch the necessity of concurring in an appropriation which it may believe that neither the law nor the public interest requires, or of endangering all the appropriations of the Government. The committee of the House of Representatives hope that the appropriations which both Houses deem necessary will be made, and that the appropriation for brevet officers, which the Senate suggests, will be left to be provided for when an amendment to the act of 1812 shall determine what that appropriation ought to be.

The committee of the Senate, in answer to these observations, supported their amendment by arguments, which they have since reduced to writing, and which the committee of the House of Representatives are thus enabled to report more accurately than they could otherwise have done.

The conferees on the part of the Senate admitted that doubts might exist as to the proper construction of the act of 1812, allowing pay to brevet officers, and that it might be found expedient to remove such doubts by an explanatory law defining more precisely the contingencies in which such pay should be allowed; but as, according to the construction given that law by the House of Representatives, as stated by their conferees, which accords substantially with that contained in the Senate's amendment, expenditures to a

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certain extent would be legally authorized under it, and must be supposed to have taken place, and to continue to take place, until the law shall be altered, the conferees of the Senate were of opinion that an appropriation sufficient to cover such probable expenditure ought now to be made, without waiting for the passage of such explanatory law. They did not think such law should be made to have a retrospective operation so as to affect expenditures legally incurred before its passage; nor could they perceive how the passage of such a law could be deemed necessary to determine the propriety of making an appropriation to meet an expenditure which it could not regulate. They admitted, that generally it would not be the most correct course to amend a law establishing salaries or authorizing an expenditure by a provision in a general appropriation law, though they believed there was no Constitutional or legal objection to such a course; but they stated, further—1st. That the Senate's amendment was not designed as an alteration of the law of 1812, but only expressing the construction of that law which appeared to the Senate the correct one, and restricting the sum appropriated to the discharge of expenditures incurred pursuant to such construction, which it is presumed may be done on the same principle that other specific appropriations are made applicable to the objects designated, and to no others. 2d. If the objection be to the words in the Senate's amendment which restrict the application of the sum appropriated to services performed by brevet officers when acting in their brevet rank, the conferees of the Senate would agree to strike out these words and have the sum appropriated applicable to services performed by such officers generally, agreeably to the terms of the estimates. Though the conferees of the Senate were willing to admit, that generally it would not be advisable to embarrass a measure embracing the mass of appropriations deemed necessary, by insisting on one of a doubtful nature, they did not consider the argument as in any degree affecting the present case, the appropriation insisted on by them not being doubtful in its nature; because, according to any fair construction that can be given the law of 1812, and adopting that preferred by the House of Representatives, some expenditure is authorized and must be presumed to take place under it, before an explanatory law can be passed; and an appropriation to meet such expenditure did not appear to them of a doubtful nature, and on such alone they insisted.

It appeared also to the conferees of the Senate, that the construction given the law for several years by the Government, and acquiesced in by Congress, allowing brevet officers such pay as is now asked, gave those officers reasonable ground to expect a continuance thereof so long as the law continued in force; and, as the expenditure now proposed to be provided for did not arise out of any new construction of the law, and had, at least in part, already accrued, they considered it the duty of the two Houses to provide for it in the general appropriation law, and not leave it to be provided for in an act which may or may not pass; and they could see no ground for postponing the appropriation now insisted on by them that would not equally apply to any other asked for to meet an expenditure already incurred under any law that it might be suggested required amendment.

The conferees of the Senate stated explicitly they would not insist on making, at this time, any appro-

priation, with a view of covering an expenditure which should accrue subsequent to the period at which an explanatory law relating to the matter in question could be supposed to pass, and which might therefore be either authorized or controlled by such law. And, though the sum requisite to meet the expenditure that must accrue under the existing law, before it can be altered, could not be exactly ascertained, it might be estimated with nearly the same accuracy that sums for other objects are; and therefore its uncertainty appeared to them to form no solid objection to the measure.

For the purpose, therefore, of providing for such expenditure alone as must in any event take place, and leaving the two Houses to act in regard to the subject in future as each should consider correct, without being considered in any manner compromised by the appropriation that might now be made; and anxious to reconcile, as far as practicable, the views entertained by both Houses on this subject, by making those of the House of Representatives, as far as in their opinion a due regard to correct legislation and the duty they owe to the Senate would authorize, the conferees of the Senate proposed, if the conferees of the House of Representatives would agree thereto, to modify the Senate's amendment, so as to read as follows:

"For additional pay, rations, and forage, to officers having brevet commissions, when commanding separate posts, districts, or detachments, requiring them to act in their brevet rank, during the months of January, February, and March, of the present year, nine thousand dollars."

The committee of the House of Representatives did not consider this modification as in any material degree lessening the objection to the Senate's amendment. They should prolong their report unreasonably, if they were to repeat the answers which were given to the arguments of the committee of the Senate. In one respect they seem to have been misunderstood. The committee of the Senate consider them as admitting, that, under a just construction of the law of 1812, some expenditure must be presumed to take place, and to require an appropriation in this year; but they have made no such admission. In the Army of the United States there is notoriously a number of officers, in every high grade, disproportionably great, when compared with the number of men whom they command. And, if brevet officers are entitled to additional pay only when they command posts requiring them to act in their brevet rank, (and such is the construction of the Senate,) it may reasonably be presumed, that, while peace continues, there will nowhere be found that deficiency of lineal rank which will require brevet officers to act.

As the conferees of the Senate thought the objection urged by those of the House of Representatives to the course pursued by the Senate, that it made the passage of the large number of appropriations in which both Houses concur, depend upon that of one in respect to which they differ—an objection inapplicable to the subject—the committees were obliged to separate, without agreeing on the subject of the Senate's amendment. The committee of the House of Representatives regret that such has been the result, and have only to hope, that, if they have mistaken or misapplied the principles which ought to regulate the conduct of the two Houses, on the subject of appropriation bills, that their errors may be corrected by the wisdom of the House.

## CASE OF R. W. MEADE.

Mr. SERGEANT called the attention of the House to a resolution laid on the table by Mr. TRIMBLE a few days ago, and now lying there, together with certain documents transmitted to the House by the Executive on the same subject. That they related to a matter of great importance, the House was aware, and so appeared to be the public. Mr. S. did not mean to express any opinion at this time on the course which it would be proper to pursue in respect to it; but he would say, that it was a subject on which it became the House to proceed with great deliberation and caution, but at the same time with firmness, if, upon a due examination of the facts, it should appear proper that the House should proceed in it at all. This question was of higher importance than respected Mr. Meade merely; as it involved the whole question of the capacity of the Government to extend protection to its citizens—and certainly no question of greater moment could ever present itself. Questions of this sort might sometimes lead to great national consequences, and ought therefore to be closely investigated and accurately examined. It was with this view (in which he had the concurrence of the mover of the resolution) he moved that the resolution and the documents relating to the case of R. W. Meade be referred to a select committee, to examine and report the facts.

Mr. TRIMBLE assented to this course. It was perhaps proper, that there should be a report of a committee stating all the facts, and bringing them into one point of view; and he was satisfied with a course having that object in view.

Messrs. SERGEANT, TRIMBLE, HOPKINSON, BUTLER, CLAIBORNE, FLOYD, and SIMKINS, were appointed the said committee.

## MILITARY PEACE ESTABLISHMENT.

The House then resolved itself into a Committee of the Whole on the following resolutions, submitted by Mr. JOHNSON, of Kentucky, at an early period of the session, and now, for the first time, taken up:

1. *Resolved*, That it is expedient to provide, by law, for the widows of soldiers of the regular army, who were killed in battle, or who died in service, during the late war with Great Britain.

2. *Resolved*, That it is expedient to provide, by law, for the disbanded and deranged officers of the Army of the United States, who served in the late war against Great Britain, by donations in land, viz: to a major general, 1,280 acres; a brigadier general, 1,120 acres; colonel, and lieutenant colonel, 960 acres; major, 800 acres; and subalterns, 480 acres.

3. *Resolved*, That it is expedient to establish, by law, three additional military academies, viz: one in the vicinity of Fort Dearborn, in South Carolina; one in the vicinity of Newport, Kentucky; and one in the vicinity of Harper's Ferry, in Virginia: one third of the cadets to be the sons of the officers and soldiers of the late army, who died in the service of the United States in the late war.

4. *Resolved*, That it is expedient to establish, by law, an additional armory, to be located on the western waters.

5. *Resolved*, That it is expedient to organize, by law, a corps of invalids, to be composed of one thousand men.

6. *Resolved*, That it is expedient to provide, by law, for the repeal of so much of the act of Congress of the 6th of July, 1812, as authorizes additional pay and emoluments to brevet rank, in the Army of the United States.

7. *Resolved*, That the Military Peace Establishment of the United States shall consist of eight thousand men, including the corps of invalids, provided that the corps of engineers, the general staff, and the ordnance department, shall be retained as at present established. Provided, also, that no part of the Army shall be disbanded, in consequence of said reduction, but the same shall be effected by permitting vacancies, as they occur, to remain.

8. *Resolved*, That it is expedient to provide, by law, for one additional ration for each of the commissioned officers of the United States.

9. *Resolved*, That the Committee on the subject of Military Affairs, be instructed to report bills, embracing the objects of the foregoing resolutions.

No debate took place on these resolutions, but the question was successively taken on them.

And they were all rejected except the fourth, which was passed over, (on account of information on that subject having been called for from the military department,) and the 6th, which was agreed to by as large a majority as there was for rejecting all the others.

The following resolution had also been referred to the same committee, on motion of Mr. WALKER, of North Carolina:

*Resolved*, That it is expedient to provide, by law, that all minors who were regularly enlisted in the late or present Army of the United States, and who served twelve months and upwards, and having been honorably discharged, shall be entitled to an adequate bounty of land, or a commutation of such bounty in money.

This resolution, after a good deal of debate and an amendment, in which Messrs. WALKER, STORRS, COBB, EDWARDS, LITTLE, and RHEA, took part, was rejected.

There had been referred to the same committee, on motion of Mr. COMSTOCK, of New York, a resolution, that it is expedient to allow a pension to officers of the present army who were wounded in the service during the late war.

This motion was also rejected by a large majority.

The Committee then rose and reported its proceedings to the House.

The question being on concurrence in these several votes—

Mr. JOHNSON, of Kentucky, said, he considered himself in some measure bound to support the resolutions with some remarks; that the subjects involved the defence and security of the nation; and, of all the various duties which devolved upon the National Government, none could be more important than that which concerned the national defence. Donations to the disbanded and deranged officers of the late army; the establishment of three additional military academies, at Fort Dearborn, South Carolina, Newport, Kentucky, and Harper's Ferry, Vir-

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*Military Peace Establishment.*

H. OF R.

ginia; the organization of a corps of invalids of one thousand men, and the establishment of a national armory on the Western waters, are the principal measures embraced in the propositions under consideration. In the discharge of the solemn duty of placing the country in a state of security against invasion and violence from foreign communities, we find ourselves limited in our measures, and those must be selected least burdensome to the people, and least dangerous to liberty. And, in making propositions which would require considerable expenditure, I have proposed at the same time to retrench other sources of expense equal to the sum required to carry into complete operation the measures recommended for the adoption of the House. In time of peace we are called upon to make preparation for war. Roads and canals opening communications between the most distant parts of the community, and leading to the extremities of the Union; military depots, arsenals, and magazines, well furnished with the munitions of war and military equipment; fortifications on the seaboard, and strong garrisons on the territorial frontier; a classification of the militia; a small regular force, and, not the least important, the most efficient organization of the physical power of the nation for military purposes in time of war. For come it will. We have had examples enough to convince us of this, if we were not furnished with lessons of experience from the history of wars and the acknowledged depravity of the world. Perpetual peace we cannot expect, no matter how just, how virtuous, how unambitious we act towards other Powers. And the feuds and quarrels in which the most virtuous are constantly involved, warn us to beware of our own indiscretions as well as to expect the violence and aggressions of other Governments. We must rely upon the militia for the first moments of war, and for every great emergency during the war, as it has been already conceded that a large military establishment in time of peace is dangerous to liberty and burdensome to the people. A weak and inefficient militia is equally dangerous to liberty. In the one case liberty is destroyed by a Cæsar, with the instrument of power in his hands; and, in the other case, the want of concert and organization, liberty is lost by some invading force. These dangers must be equally avoided. An efficient militia in time of war will very soon supply the regular Army with efficient soldiers, and in fact such a force would only be your militia, under a more durable form, with all the affections, ties, and attachments of citizen soldiers; this is the character of our regular Army. The exploits of Jackson and Brown, of Scott, Ripley, Gaines, and Miller, at Chippewa, Bridgewater, Fort Erie, together with the brilliant defence of Fort Harrison by Major Z. Taylor, of Fort Stephenson by Colonel Croghan, the battle of Brownstown, the defence of Fort Meigs, all, and many more will stand as monuments to the power of our militia population converted into a disciplined corps. In this military preparation of the population of

the nation we must not overlook the strength and efficacy of the moral power of the community; this moral power is indispensable to our happiness and safety. And we have done much to organize and control it, that it may be brought to the help of the Government in the hour of peril, and difficulty, and danger. Such is the provision for the wounded soldier, the half-pay pension to the widow and orphan, and for the gallant citizen who sacrificed his horse, his gun, and other property in the military service of his country, without his fault or neglect.

But on this subject much remains to be done. Having given the faithful soldier his bounty lands, it becomes now our duty to extend the same bounty in donations of land to the disbanded and deranged officers of the late Army, as a just reward for their meritorious services, and in the discharge of that promise which was held out to them at the commencement of the late war, provided they should acquit themselves with honor. The expectations of the country have been fully realized, the boon is demanded, and the people urge us to give it; and the claim of the officer is more imposing than it would be in any of the Governments of Europe. There the military profession is a trade—a permanent occupation—a certain maintenance for the officer and his family. In the United States the call is sudden, the service temporary, the pay and emoluments terminate with the service; the personal sacrifice is great, and inasmuch as this sacrifice is made for the security of the nation and in defence of our liberties, the crisis having passed by, the honor of our arms having been maintained, and rich in lands, the rewards should be extended. In continuation of this system of strengthening and organizing this moral power, I have proposed the corps of invalids, who are to perform stationary service, while we discharge the debt of gratitude to those who have fought the battles of the country and secured to us the enjoyment of our independence.

But it is indispensable that your militia should be based upon military science, and, for the purpose of military education, I have proposed military academies. The classification of your militia, the diffusion of military science, the physical power of the States, animated by the spirit of liberty, would present a shield to the country. This cheap mode of military preparation in time of peace for the period of war would have this other great advantage, of strengthening the arm of Government without any of the evils or demoralizing effects of large standing forces in peace. If I were to hazard an opinion, I should say, that each military academy, well organized, would be equal to an army of twenty thousand men without incurring the expense of a thousand. Skilful generals and subordinate officers will always command efficient forces. We only want scientific officers and practical men of engineers, artilleryists, &c., at the head of our armies, in time of war, to make them invincible. We have a memorable example of the truth of this assertion in the commencement of the French

revolution, when the French militia, controlled and disciplined by officers well skilled in the military art at the various military schools in every part of France, were too powerful for the combined veteran troops of Austria, Prussia, and other Powers of Europe. The spirit of liberty, controlled by intelligent officers, made the French army victorious in every conflict. We are taught by the history of nations, that a people may possess the spirit of liberty, and not the means or the power to maintain it against the encroachments of tyranny. The aboriginal inhabitants of America, and less civilized nations than the United States, are warriors from habit, and inured to toils to which we are strangers; constant exposure to cold, hunger, and the use of the rifle, or some other warlike weapon, prepares them for the fatigues of a campaign, and the dangers of a battle. In such a case the same military preparation is not requisite.

In case of war we must be involved with some of the nations of Europe. Their power and authority rest upon the basis of large standing armies; and, as the United States maintains its authority by resting upon the confidence and affections of its citizens, in case of war, our militia, our citizens, must come into direct conflict with the regular army and veteran troops of Europe. Military preparation is now much more important than it was previous to the American Revolution. The early settlement of the country, the ordinary pursuits and athletic exercises of the inhabitants, prepared them for the fatigues and dangers of a military life. In the progress of society, moral and physical causes more or less impair or enervate this character for military enterprise and glory. These causes, moral and physical, can and should be counteracted by other causes equally powerful. In monarchical and other absolute Governments, the monarch or despot has no interest in resting upon an armed population for defence; hence the increase of towns and cities, population and riches. The pursuit of wealth introduces luxury and effeminacy, and destroys the capacity of the people for martial exploits. The exceptions to these consequences do not invalidate the truth of the declaration. In the United States, where the great mass of the people are industrious and laborious farmers, manufacturers, and mechanics, and enterprising tradesmen, who must be the main reliance in defence of their own rights, and compose, principally, the militia of the States, these deleterious effects cannot result under our free institutions, if preparatory and precautionary measures are taken by the National Legislature. It is very interesting to observe the changes which have taken place in the art of war. In very early times, and before the use of gunpowder and fire-arms, the citizens were called upon to defend their own territory, or invade others, without compensation. A campaign generally ended the contest. As men multiplied, and society increased, the citizen soldier was paid for his services; and, even as early as the ages of the Grecian Republics, large armies were kept in perpetual employ-

ment, and paid by taxes upon the people. And we are taught this fatal lesson, that, in every great revolution of which we read in history, a standing army has been the fatal and bloody instrument which has been used in the hands of ambitious men, by which it has been effected. The great army of veteran troops, commanded by Philip of Macedon, not only demolished the Persian monarchy, but the liberties of Greece; the well organized and gallant militia of Greece were conquered and dispersed in the conflict. The existence of Rome was threatened by the veterans under Hannibal, until the Roman militia were converted into a disciplined force. The ruin of Carthage and the elevation of Rome, was effected by this well organized force, under Scipio, who gained the victory over Hannibal at Zama, by the superiority of the discipline of his forces. The army, which decided the fate of Carthage, was retained in service, and the Roman forces, after this continued to be principally a standing army, conquering all the kingdoms of the earth, and the existence of Roman liberty and the power of Rome were at last destroyed by this standing army in the hands of Cæsar. After the subversion of the Roman power, Europe was divided into provinces and petty kingdoms, and by changing the means of war, from the feudal militia to standing armies, all the monarchies of Europe were established, and the means of self-government taken from the people. These remarks are made to prove the necessity of always depending upon the population of a country for its preservation and liberty, and the necessity of preparation in peace for the period of war. The Grecian Republics inured the citizens to gymnastic exercises, and the Romans had the *Campus Martius*; but, in most of the States, the muster of our militia is merely nominal. War has changed its character—it is more obstinate and more bloody—we must examine its character, and prepare accordingly; it has become an art; it cannot be taught in a day; it involves many branches of science. The wealth, the happiness, the power, and the freedom of the United States excite the enmity and hatred of other Powers, and of course we are more likely to be embroiled than any other nation; then, let us rest upon the diffusion of military knowledge and science among the people; the classification of the militia, the moral power of the nation, and the spirit of liberty. As the proposition to establish a national armory has not been reported to the House, I shall reserve my remarks on that subject until it is called up.

When Mr. JOHNSON sat down—

The votes in Committee of the Whole were severally concurred in.

When the sixth resolve was under consideration, Mr. ROBERTSON, of Louisiana, moved to amend it by adding to it a proposition to this effect: that the Military Committee be instructed to inquire into the expediency of educating, at the Military School of the United States, the sons of all officers, non-commissioned officers, or privates, who have fallen in fighting for their country.



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*Military Education.*

H. OF R.

After considerable discussion, in which Mr. WILLIAMS, of North Carolina, Mr. SMITH, of Maryland, Mr. JOHNSON, of Kentucky, Mr. FORSYTH, Mr. LOWNDES, and Mr. MERCER, took part, the amendment was negatived, not, it is believed, from an objection to the principle it embraced, but to its introduction in this manner.

After the whole of the resolutions had been disposed of, and the 6th referred to the Military Committee, to bring in a bill—

Mr. ROBERTSON renewed, in a separate form, the proposition he had failed just now in carrying by way of amendment; but it grew late, and the House adjourned without coming to a decision on it.

#### FRIDAY, February 13.

Mr. MASON, of Massachusetts, presented a petition of Thomas B. Wait & Sons, stating that they are preparing for the press a third edition of their State Papers, and praying that Congress would authorize a subscription for an additional number of said work, and for its continuation; also, that they may be permitted to publish from the files of this House, and from the records of the Secretary of State, such confidential documents as may now be printed without detriment to the public interest.—Referred to the Joint Library Committee.

Mr. TAYLOR presented a petition of the New York Emigrant Society, praying that a tract of ten townships of public land, in the Territory of Illinois, may be vested in trustees, and set apart for, and sold to, Irish emigrants, on a credit beyond what is now given by law.

Mr. BALDWIN presented a similar petition from sundry Irishmen, the descendants of Irishmen, and other inhabitants of Pittsburg and its vicinity, in the State of Pennsylvania; and

Mr. SMITH, of Maryland, presented a similar petition of the Hibernian Society of Baltimore.

*Ordered,* That the said petitions be referred to the Committee on the Public Lands.

Mr. LOWNDES, from the Committee of Ways and Means, reported a bill making appropriations for the support of the Navy of the United States for the year 1818; which bill was twice read, and committed.

Mr. L., from the same committee, reported also a bill for the relief of John B. Dabney; which was twice read, and committed.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill repealing so much of the act of July 6, 1812, as allows extra pay and emoluments to brevet rank; which was read, and (after some conversation on the course it should take, and after once deciding against a commitment, but which decision subsequently was reconsidered and reversed) was committed to a Committee of the whole House.

On motion of Mr. J. S. SMITH, the Secretary of the Treasury was requested to lay before the House a statement of the number of tons of bar iron, iron in pigs, and cast and rolled iron, that has been imported into the United States annually,

and from what countries, from the first of May, 1812, to the first of May, 1817; and, if any, what quantity has been exported during the same period.

On motion of Mr. ROBERTSON, of Louisiana, the Committee of Ways and Means were instructed to inquire into the expediency of amending the laws in relation to the salaries and emoluments of the Registers and Receivers of Public Moneys.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, on the petition of Joseph Wellington Page; which was read, and ordered to lie on the table.

The SPEAKER laid before the House a report from the Secretary of War on the petition of Brigadier General Moses Porter; which was read, and ordered to lie on the table.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting sundry statements in relation to the accounts of Major General St. Clair, in obedience to a resolution of the House of the 3d instant; which was read, and ordered to lie on the table.

In pursuance of notice given yesterday, Mr. HARRISON obtained leave to bring in a bill to extend for a further term of five years the pensions heretofore granted to the widows and orphans of the officers and soldiers who died or were killed in the late war. The leave asked was given by a vote of 55 to 52; and Mr. HARRISON, Mr. MOORE, Mr. JOHNSON, of Kentucky, Mr. STORRS, and Mr. STEWART, of North Carolina, were appointed a committee to prepare and bring in the same.

A message from the Senate informed the House that the Senate have passed bills of the following titles, viz: An act for the relief of Richard M. Johnson; An act supplementary to the act, entitled "An act further extending the time for issuing and locating military land warrants, and for other purposes;" and, An act to authorize certain purchasers of public land to withdraw their entries, and transfer the moneys paid thereon—in which bills they ask the concurrence of this House.

The former of the said bills was read twice, and referred to the Committee of Claims; and the two latter were severally read twice, and referred to the Committee on the Public Lands.

The House took up the report of the conferees on the part of this House on the subject of the disagreeing votes of the two Houses; and on motion of Mr. LOWNDES, the House resolved to adhere to its disagreement to said amendment.

#### MILITARY EDUCATION.

The House then resumed the consideration of the resolution yesterday offered by Mr. ROBERTSON, of Louisiana, to instruct the Military Committee to inquire into the expediency of educating at the military school of the United States the sons of all officers, non-commissioned officers, or privates, who have fallen in fighting for their country.

After disposing of several propositions to amend

the resolution, and some discussion of its objects, a substitute was offered by Mr. MOORE, of Pennsylvania, as follows; which, after being amended by expunging the words in brackets, was agreed to:

"That the Committee on Military Affairs be instructed to inquire into the expediency of bringing in a bill embracing the following principles, viz: That in all applications hereafter for the admission of cadets into the Military Academy at West Point, a preference shall be given to the sons of the officers, non-commissioned officers, and soldiers who were killed in battle, or died in the service of the United States in the late war, giving a preference to those least able to educate themselves, and best qualified for the military profession, [and to be distributed as equally as practicable throughout the several States and Territories, according to the ratio of representation.]"

In this shape the resolution was adopted by a considerable majority.

#### OFFICE OF CLAIMS.

Mr. JOHNSON, of Kentucky, offered the following motion for consideration:

*Resolved*, That the Secretary of War be directed to report to the House of Representatives *his opinion* as to the propriety of continuing the Office of Claims for the term of one year, from the 9th of April next; *and if, in his opinion, this office should not be continued, to what branch of the War Department would it be proper to transfer the duties of the Commissioner, to investigate the claims for lost property.*

Mr. POINDEXTER questioned the propriety of calling on the Head of a Department for his opinion as to the propriety or expediency of continuing an office.

Mr. WILLIAMS, of North Carolina, remarked that a similar resolution was already referred to the Committee of Claims, and if they had deemed it expedient to call on the Secretary of War, they would have done so. It was proper to call for facts from a Department, but not for opinions, and the House was as well qualified to judge of the propriety of continuing this office as the Secretary of War. The course proposed was irregular, and he disapproved of it, though it was with reluctance that he opposed a call for information.

Mr. JOHNSON, of Kentucky, said this resolution was different from that which had been referred to the Committee of Claims, and there was no irregularity in calling upon a department to know what branch of it a particular business could best be referred to. The Secretary of War had a control over this business to a certain extent, and he was best able to give information on the subject. The Office of Claims had been created for certain purposes. This office was about to expire by law, and he thought it perfectly proper and regular to call on the Secretary of War, as one particularly qualified by his acquaintance and control over the Claims concerns, to say whether the further continuance of the office was necessary; and if not, to what branch of his department it could most properly be referred. At any rate, Mr. J. said, he should deem it his duty to bring this subject forward in some way or

other. After establishing an office for the settlement of claims, would it be proper, he asked, at the end of two years, to close the door against all which may not have been brought forward? So partial and unjust a course he hoped was not intended; and his object was to investigate the subject early enough in the season to provide for the settlement of all claims heretofore legislated for.

Mr. TAYLOR, of New York, did not think Congress would feel bound to withhold any just claim, because it might decide any particular office no longer necessary. He was unwilling to call on the department for any *opinion*, but had no objection to call for any information it might possess, tending to affect the expediency of the continuance of the Office of Claims; and moved so to change the words of the resolution first in *italic* as to conform it to his wishes.

This proposition was agreed to by Mr. JOHNSON.

Mr. FORSYTH then moved to amend the resolution by striking out all the last part thereof, printed in *italic*, which required the opinion of the Secretary of War, as to what branch of the department it would be proper to refer the duties of the Commissioner to. Which motion was agreed to; and, thus modified, the resolution was adopted.

#### BANKRUPT LAW.

The House then, on motion of Mr. HOPKINSON, resolved itself into a Committee of the Whole on the bill to establish a uniform system of Bankruptcy throughout the United States.

The reading of this bill (which contains fifty-four printed folio pages) occupied the remainder of the sitting. After the reading was finished, the Committee rose, obtained leave to sit again, and the House adjourned to Monday.

MONDAY, February 16.

Mr. WILLIAMS, of North Carolina, made a supplementary report on the petition of John Ireland, which had, on his motion, been recommended to the Committee of Claims.

This report adduces, as further testimony against the claim of John Ireland, a letter addressed by Commodore Barney to a member of the House, denying the fact that the destruction of the house for which compensation is claimed was attributable to the occupation thereof by the flotilla men under his command, &c.

On this report some little debate took place, in which Mr. STUART questioned the force of this sort of epistolary declaration, in contradiction to the opposing evidence of several persons on oath; and Mr. SMITH, of Maryland, questioned the correctness of a particular part of the report. To both of these gentlemen Mr. WILLIAMS, of North Carolina, replied.

The report was ultimately ordered to lie on the table.

Mr. WILLIAMS, from the Committee of Claims, made a report on the petition of B. & P. Jourdan, which was read; when Mr. W. reported a bill for

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Uniform Bankrupt Law.

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the relief of B. & P. Jourdan, brothers, which was twice read, and committed to a Committee of the Whole.

Mr. WILLIAMS also made a report on the petition of Madame Poidevin, which was read; when Mr. W. reported a bill for the relief of Madame Poidevin, which was read and committed to a Committee of the Whole.

Mr. WILLIAMS also reported the bill from the Senate, entitled "An act for the relief of Richard M. Johnson," without amendment; and the bill was committed to a Committee of the Whole.

Mr. LOWNDES, from the Committee of Ways and Means, reported a bill fixing the compensation of the Secretary of the Senate and Clerk of the House of Representatives and the clerks employed in their offices, which was read the first time.

An engrossed resolution "directing the judges of the Supreme Court to be furnished with Wait's State Papers," was read the third time and passed.

On motion of Mr. TYLER, the Committee on the Judiciary were instructed to inquire into the propriety of altering the time of holding the United States court for the district of Virginia, directed by law to be holden in the city of Richmond, from the twelfth to the second day of April, in each year.

On motion of Mr. WILLIAMS, of New York, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of placing John Miller upon the pension list, from the 20th of October, 1812.

On motion of Mr. BLOOMFIELD, the Committee on Foreign Relations were instructed to inquire into the expediency of establishing the residence of a consul at Mogadore, in the empire of Morocco.

[Mr. B. assigned as a reason for this motion the advantages which would result from a consulate there, &c., and particularly from the opportunity it would afford of redeeming from captivity our shipwrecked mariners and other citizens who might be unfortunate enough to fall into the hands of the Arabs, &c.]

Mr. TARR offered for consideration a motion to the following effect:

"That the Committee on Military Affairs be instructed to inquire into the expediency of granting a tract of one hundred and sixty acres of land to each surviving soldier of the late Revolutionary army who enlisted for three years and faithfully served out the term of their enlistment."

Mr. T. said that the class referred to was a very meritorious description of men, who had never been provided for heretofore, but who, he thought, ought now to be provided for in the manner which he proposed.

The motion was agreed to, but not without a considerable number of negative votes.

#### BANKRUPT LAW.

The House then resolved itself into a Committee of the Whole on the bill to establish a uniform bankrupt law.

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The first section of the bill having been read—

Mr. HOPKINSON, of Pennsylvania rose. He observed he was happy to obtain the attention of Congress to this interesting subject, at a period in all respects so favorable to a full and fair discussion of its merits, and a just and impartial decision upon them. That he was so deeply impressed with the importance of the bill to a great, valuable, and suffering portion of the people represented here, that he rose to explain and enforce it with an anxiety by no means calculated to aid him in the attempt. Mr. H. said he found encouragement, however, in the profound tranquillity of the country, so favorable to the consideration of our domestic concerns; in the fraternal harmony now so prevalent in this Hall; and in that spirit of accommodation and kindness which would always be found among the Representatives of a people desirous of promoting each other's happiness, of aiding each other's necessities, and advancing the general prosperity. If, under auspices so favorable, the bill to establish an uniform system of bankruptcy shall be rejected as unwise and impolitic, Mr. H. would consider the question so decided, at least for many years, and that it would be a waste of the time of the House to attempt it again.

Mr. H. said it was not his intention at this time to enter into the details of the bill, but to give a general view of the nature, objects, and probable effects, of the system proposed—to exhibit the existing evils which require to be redressed, and explain the efficacy of the remedies provided by this bill. Mr. H. called on those gentlemen whose constituents might have no immediate interest in these remedies, not on that account to refuse them to others, to whom they were in the highest degree essential.

Mr. H. here gave a general historical view of the relation of creditor and debtor under Roman law, with the tyrannical and cruel power afforded to the former over the persons of the latter, and his family; the amelioration of the condition of the debtor under the milder influence of the Christian Emperors, and gradual progress of the same principles in England and other commercial countries; observing, that, in proportion as the people of a country advanced in civilization and refinement—became commercial, and acquired a just knowledge of the interests of commerce—the condition of the debtor, when really honest and unfortunate, had improved, and the power of the creditor to gratify his malignant passions, by wanton and useless cruelty, had been restrained and abridged.

In the origin of the bankrupt system of England, the bankrupt was considered a criminal; "But at present, (says *Blackstone*,) the laws of bankruptcy are considered as laws calculated for the benefit of trade, and founded on the principles of humanity as well as justice." If such is the character of a bankrupt law, need it have any further recommendation to our attention and favor? We know the importance of trade, and we acknowledge the obligations of humanity and justice, as fully as any people. The subject seems

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to have been considered in the same light by the framers of our Constitution, who have, therefore, among the enumerated powers of Congress, expressly granted the power "to establish uniform laws on the subject of bankruptcies." Mr. H. said he considered this as a declaration of the will of the people that Congress should act on this subject, at least so far as to establish a uniform rule. It binds us to no particular system, it is true, but it does enjoin upon us, most impressively, to provide some one which shall be uniform in its operation on the different States, giving a certain known rule, and preventing those numerous and obvious evils that must arise from various and conflicting systems in the different States, by which the relation between debtor and creditor—so interesting to all classes of our citizens—must forever be changing, be imperfectly understood, and be daily producing inequality and injustice between the creditors and debtors residing in different States.

Mr. H. contended it was the duty of Congress to carry into effect the will of the people, thus solemnly declared; not indeed by an imperative, absolute command, but in a way that cannot be misunderstood, and ought not to be disregarded, without the most clear and cogent reasons. He insisted, that when the several States parted with this power, it was only to attain that uniformity of system which could be established only by the General Government; and that the States, having surrendered the power for this purpose, had a fair claim on the General Government not to disappoint this expectation, but to apply the power to the uses intended by the grant of it.

Mr. H. here enlarged upon the general duty of Congress to take up and organize all the ceded powers in the Constitution, and explained the difficulties that have arisen with some of the States, only because Congress have been relying upon State courts for the execution of many of the laws, instead of organizing and bringing into action all the judicial power of the United States. Mr. H. therefore, in the first place, relied upon this Constitutional obligation in support of the bill, or of some law upon this subject which shall produce uniformity in relation to it.

In the next place, Mr. H. contended that the example and experience of every commercial nation known to us, was authority not to be disregarded. He then explained the reasons for such a system as applied to commercial men, rather than other citizens, arising from the nature and extent of their business; the hazards to which they were exposed from the enormous credits they were obliged to give in the course of their business; from their distant connexions and agents, to whose fidelity and capacity they must trust so much; from the dangers of all the elements; from the political change in their own and foreign countries; and, in short, from every quarter and source from which danger and ruin can come. Mr. H. contended that a business thus peculiarly exposed, required peculiar regulations and protections; without which, men would not embark in it. He thought this protection pecu-

liarily necessary to this country; young, enterprising, and comparatively deficient in capital even for the business that, on commercial principles, may fairly be done. The country too wants all the labor, and industry, and energy of all its citizens, and cannot afford to have many thousands of them bound hand and foot, at the wantonness and will of their creditors, without the possibility of producing by this bondage the least reduction of the debt; while the debtor is subjected to incalculable suffering, and the community to a most serious loss. It is delightful, said Mr. H., to anticipate what a mass of talent and industry will be set loose by the passage of this bill; and which is now daily diminishing and perishing in hopeless want and useless inactivity.

Mr. H. then contended that the unusual hazards and losses to which our commercial men have been exposed for many years by the great and sudden changes in the political relations of the world, against which no prudence could guard, entitled them to all the care and indulgence of the Government. He said that the country had grown rich and prosperous by commercial enterprises, which had been ruinous to the individuals engaged in them. That the public Treasury had been filled with duties paid on goods, for which the merchant had never seen the first cost; that there had been instances of merchants failing who had, within a few years, paid millions into the general coffers. Have such men, said Mr. H., no claim upon the country? Shall we turn coldly from them in the hour of their misfortune, while we riot in the wealth produced by their exertions, and are made glad by the prosperity which has grown from their ruin? Shall we leave them to waste and perish, while no man living receives the least benefit from their sufferings; nor the least gratification either, unless it be that of the demon?

The third ground on which Mr. H. maintained the necessity of passing the bill, was the situation of the insolvent laws now existing in the different States, and the ruinous and disgraceful effects produced by them. Mr. H. here explained at large the nature of those insolvent provisions; their inequality, uncertainty, and injustice; threatening to destroy all credit, all confidence, in the country; to make the commercial intercourse between the States so unsafe, that its extent must be greatly abridged, and we shall become aliens to each other. He then considered the effect of the insolvent laws, as regards the debtor, the creditor, and the community. It was unjust, he said, as regards the debtor, because it makes no distinction between honest misfortune and criminal prodigality. The principles of the insolvent laws require only a full surrender of the property in the possession of the insolvent at the time of his application; but the manner in which he has lost the rest, whether by extravagance, waste, gambling, or the indulgence of any other folly or vice, cannot affect his right of discharge. Is it consistent with justice or sound policy, to deal out the same measure of indul-

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gence to such a man, as you give to one who, in the fair and usual prosecution of his business, without the impeachment of fraud, perhaps not even of imprudence, finds himself stripped of all his property, and unable to satisfy the demands of his creditors? The insolvent laws make no distinction in the cases, while the bill on your table puts it in the power of the creditors to make a discrimination so essential to justice and policy. In the case of the honest unfortunate debtor, the law is as much too rigorous as in the other case it is too mild. In what condition do you place him? He becomes the eternal slave of his creditors, without yielding to them the profits of a slave. He is dead to every exertion; he is lost to all usefulness; he has no means to earn a farthing; no inducement to make the attempt. When embarrassments distract his efforts, and difficulties crowd upon him, he exhausts himself in unavailing struggles to the last, because he sees that, whenever he ceases to do so, he must be forced to a jail. This is the certain end of his career. He is put there to starve and perish within its walls, while his miserable wife and children starve and perish without. And why is this done? Does not the voice of humanity cry out against it? Does not the policy of society condemn it? Is not every sound sentiment of justice outraged? Why will you permit a cruel and merciless man to imprison another at his will; to shut him from the fair light of Heaven; to deprive him of the sweet air we breathe; to pals his limbs, and break his heart? For some dangerous crime? No, unless misfortune be a crime. For some loathsome vice? No, unless poverty be always vice. To what use, for what good purpose, is this permitted and done, to the creditor or to the community? To the creditor, nothing; for gold is not found in the vaults of a jail, and debts are not paid with sighs and groans. To the community, worse than nothing: lasting, serious injury; the loss of the labor, the industry, the talents, of many a useful citizen; often the charge of maintaining his family, made destitute and miserable. Mr. H. remarked that another unfortunate effect of the insolvent system was to put it entirely out of the power of the insolvent ever to retrieve his affairs. His friends are driven from him—knowing that, should he afterwards appear in business, even with their means and assistance, a suspicion of fraud, in which they might be implicated, would arise. It would be supposed the insolvent had secreted the funds with which he again appears, and that his charitable friends had lent themselves to the fraud. Besides, as whatever might be found in his possession would be liable to the grasp of his creditors, it is obvious there is no inducement to his friends to furnish him with their assistance and funds, nor for the insolvent to desire that they should. He therefore drags on, living partly on miserable, and often dishonest expedients, and the charity of those who do not become weary of his wants. If the insolvent laws, said Mr. H., are so pernicious in their effects upon the debtor, let us see how much better they are in relation to the rights

of the creditor. They subject him to the grossest frauds in every shape, and from every quarter. They place him in a position with his debtor, which offers every temptation to the latter to cheat him, and furnishes him amply with the means of doing so. The first right of a creditor would seem to be a full and fair opportunity of inquiry into the affairs of the insolvent; of knowing how he became unable to pay his debts; what property remains to be applied to them; and what has become of the rest. This never is afforded, and never can be, under an administration of an insolvent law. The nature of the proceeding forbids it—the tribunal before which the examination takes place is not calculated for it, and the whole affair has become a mere mockery, which the vulgar attend for their amusement, and nobody looks to for any advantage. The notice given to creditors is such as cannot reach one-half of them; the means of detecting fraud are so incompetent, that it is idle to resort to them; the discoveries to be made must depend so entirely on the examination of the insolvent himself, who has been taught, by the experience of thousands, how to pass the ordeal, the court considering this business as a sort of intrusion on their more important duties; in short, the whole proceeding, from its commencement to its termination, is a mockery so contemptible in its progress, and so inefficient to any one good result, that creditors submit to be defrauded rather than appear as parties in such a proceeding, with a full knowledge that their opposition will be effectual neither to discover the frauds of their debtor, nor prevent his discharge.

What can be the amount or utility of the examinations which take place under these laws, when the court will appoint one or two days for one or two hundred cases, and will generally find the time amply sufficient for all the inquiry to be made? Mr. H. said, he had known as many as one hundred insolvents discharged in one morning; had seen them sworn off by six and eight at a time, each struggling to get his hand upon the book, repeating the oath, or rather parts of it, altogether; and exhibiting a scene of confusion equally disgusting and iniquitous. But the monstrous evils of these insolvent systems are found not so much in what is wrongfully done under them, as in that which may be rightfully or rather lawfully done. And here, said Mr. H., we open upon that boundless field of fraud, corruption, and ruin, in which we see the various modes resorted to, to give preferences to particular creditors, to the utter exclusion of others equally meritorious and just; by which those funds which should be fairly distributed to alleviate the losses of all, are bestowed on a few, who may be preferred by caprice, by friendship, by blood, or by future expectations, held out to the debtor. The whole power and machinery of assignments, judgments, attachments, are brought into action to promote and secure a purpose so immoral and unjust; but at the same time so authorized by the law as to be placed beyond the reach of morality or justice. Nor does the mischief go no further

to secure an unjust preference between creditors of equal claims; but the means by which this may be done furnish also a full opportunity to place property in the hands of friends and relations, to whom nothing is due, to come afterwards to the use of the insolvent himself. Mr. H. said, that, under the patronage of these insolvent laws, the merchants had now established a code of laws for the payment of their debts, which is at once destructive of all commercial credit, and of every principle of moral justice; they have, what they are pleased to call their debts of honor, and their debts of business; and the former are preferred to the exclusion of the latter. Endorsements are considered of the first class; yes, the endorser, by whose aid he has been enabled to sustain his credit long after it ought to have sunk; by whose means he has been enabled to make purchases of goods from honest, unsuspecting vendors—this endorser finally carries off all property, perhaps the very goods purchased on their immediate proceeds, and the sellers of them obtain not a farthing from the wreck. To say nothing of the moral injustice of such distinctions, observe the effect it has upon the commercial interest and prosperity of the country. The debts of the failing merchant may be \$100,000—his property may amount to \$50,000—of course, a fair distribution of his effects would afford to each creditor fifty per cent. of his debt, and the loss would then be ruinous to none. But if he is permitted to give the whole of his estate to his creditors of honor, they may receive the full amount of their debts, and the others, equally meritorious at least, obtain not a cent, perhaps to their entire ruin. A strong case of this sort was lately stated in a Philadelphia paper, and is but one of many which occur almost daily. A merchant, said Mr. H., whose dealings have been very extensive, but who has lately failed, assured me that his destruction was owing entirely to this system of preference; for had he but got a fair proportion of the effects of his debtors who had previously failed, he would have been able to continue his business; but, whenever such a failure occurred, he found all the property appropriated to a few favorites of the debtor. This shocking and destructive system, said Mr. H., can be broken up only by a general bankrupt law, by which the effects of an insolvent trader will be taken from his caprice as well as his fraud, and put into the hands of those who will distribute them in just proportions among those whose claims are equal. Mr. H. made some further illustrations of the pernicious effects of these preferences, made entirely at the will of the debtor, at a time when, in truth, all his control over his property ought to have ceased. But, said Mr. H., one of the best uses of a bankrupt law yet remains to be mentioned. It is the inducements it holds out to an embarrassed man, when he finds his affairs irretrievable, to surrender them into the hands of his creditors, before everything is wasted in violent efforts to save himself. At present, seeing nothing before him but a jail, to be followed by a perpetual bondage;

and knowing that these consequences are precisely the same, whether he pays to his creditors one-half of their debts, or not one cent, he plunges on in mere despair; postponing the catastrophe as long as possible; diminishing his property by desperate expedients; dragging into the vortex of his ruin every friend from whom he can obtain either credit or money; and, finally, falls, bringing down with him all who have trusted him, and spreading his misfortunes to every point within his reach and influence.

If, said Mr. H., such are the inconveniences and injuries to the creditor, the debtor, and the community, under the present insolvent systems, what advantages do they possess to counterbalance the evil? What has the creditor? Nothing but the chance, the valueless chance, of his obtaining his debt from the future acquisitions and earnings of his debtor; it is a right, it is true but it is an empty, worthless, unproductive right; which may, indeed, be used to gratify malice, to satiate revenge, to oppress the afflicted, to tread on the fallen; but to obtain the debt, never. How is this property, which is to pay the debt, to be obtained? Can the insolvent earn it by his industry, when you place him in a situation in which industry will be useless? Can he earn it without capital? and you will not suffer him to have one that may not be torn from him in a moment. Can he even rely on the aid of his friends, when it would be idle in them to afford him the means of helping himself, knowing they could not place it at his disposal for an hour? It is an undeniable truth, that the very right the creditor has to the future earnings of the debtor is destructive of itself, and renders it impossible that any such earnings can ever be obtained; the mere circumstance that he cannot hold or enjoy what he may acquire, will prevent the attempt, if not the desire to acquire it.

Mr. H. appealed to experience, and asserted that of the many thousands of persons who have been discharged by insolvent laws, he had never heard of one who afterwards paid his debts; and concluded, that this right of the creditor was a mere fallacy and delusion, and ought not to weigh a feather against the great and manifest usefulness of a bankrupt law. He asserted, that you take from the debtor every stimulus to exertion, every hope of reinstating himself; that you make him a rogue from necessity; you compel him to live by stealth; to feed and clothe himself and his children by fraud; for, on this strict principle, that all he may afterwards have is the property of his creditors, it is evident that he supports life by that which does not belong to him; and exists, from day to day, by a sort of petty pilfering. How does this humble the spirit of a man; how does it degrade his character and corrupt his principles! When misfortune overtook him, he may have been honest and honorable; but, if he continues so under the corrupting influence and merciless lash of an insolvent law, it will be miraculous. How different is the case if you put this man at large, his honor unimpaired, his self-respect not destroyed, to exercise his powers of mind



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and body, to use his friends, and reassume his usefulness in society, improved by experience, and chastened by misfortune! Again, said Mr. H., if there is no instance of an insolvent's afterwards paying his debts, how few are there, in which he has had any property, of any consideration, to surrender to his creditors? No property, real or personal, is the usual return—and for the reasons already mentioned; he has no inducement to stop until every farthing is gone; but every inducement to go on to the last extremity; and it is not in the power of the creditor to stop him, as he may under the bankrupt law. Mr. H. mentioned some cases, where considerable property had been obtained by the powers of the bankrupt law, which would have been lost under the insolvent system.

The obvious recommendations of a bankrupt law, said Mr. H. are these: 1st. It furnishes ample time and means to the creditors to investigate the conduct of the debtor before his bankruptcy, to ascertain the cause of it, and inform themselves of the fulness and fairness of the surrender of his effects, and to grant or withhold his discharge, as they shall find him worthy of it, or otherwise. 2d. It puts the citizens of different States on a footing of equality in their mutual dealings; and gives a known and certain rule on the subject. 3d. It puts our citizens on a footing with foreigners in their relations of debtor and creditor. 4th. It overreaches all preferences and partial assignments; and fairly distributes the property among the creditors in proportion to their debts. 5th. It offers fair inducements to embarrassed men to make a surrender of their affairs, before they have squandered their property and involved their friends. 6th. It will restore to society a great mass of industry and talent, now lying useless, indeed burdensome, to the community; and, lastly, it will pay a just respect to the rights of humanity, which are outraged by the power the creditor now possesses over the whole life of his debtor.

Mr. H. said, the most difficult question, in relation to the bill, would be presented by the first section. It will be found to differ essentially from the English bankrupt law, as well as from that passed here in 1800. An attempt is now made to limit the extent of the operation of the law, and bring it back to what was, certainly, its original object and design. Although it was in the beginning intended for traders, and all the reasons and policy, urged in its behalf, apply to such men, yet it is well known that, by a long course of judicial decisions, the provisions of the law had, by degrees, been extended to every man who could bring himself within the terms "buying and selling," although clearly his principal occupation was of a different description. This construction is now so established in England, that, although the judges constantly complain of it as a departure from the real object of the law, they do not feel themselves at liberty to unsettle it. As our law of 1800 followed the terms of the English statutes in this respect, we also adopted the construction that had been given to them;

and, said Mr. H. I believe much of the evil and unpopularity of that law may be traced to this source. In framing the bill now proposed, all these judicial decisions had been carefully examined, and specially excepted, and some general words of description adopted, calculated to keep the law within its proper legitimate bounds; and excluding those persons "whose living is substantially gotten by mechanical labor, though with some mixture of buying and selling;" a limitation taken from the recommendation of the Judges of the Court of King's Bench. In introducing this restriction, it is presumed not only that the law is brought back to its first and proper objects, but that it will be more acceptable to the people of this country, who seem to have complained of the universality of the former system.

When Mr. HOPKINSON concluded, the House adjourned.

TUESDAY, February 17.

Mr. HERBERT, from the Committee for the District of Columbia, reported a bill explanatory of the act authorizing the sale of certain grounds belonging to the United States, in the city of Washington; which was read twice, and committed to a Committee of the Whole.

Mr. LOWNDES, from the Committee of Ways and Means, reported a bill making appropriations for the support of Government for the year 1818; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. COMSTOCK, the Committee on Military Affairs, were instructed to inquire into the expediency of making further provision by law for the maintenance and support of Catharine Low, who, since the commencement of the late war, has lost her husband, two sons, and a son-in-law, in the military service of the United States, and is in indigent circumstances.

On motion of Mr. SAWYER, the Committee of Commerce and Manufactures were instructed to inquire into the expediency of providing by law for staking the channel of Currituck Sound, from the inlet to Powell's Point.

The bill fixing the compensation of the Secretary of the Senate and Clerk of the House of Representatives, and of the clerks employed in their offices, was read the second time, amended, and ordered to be engrossed and read a third time to-morrow.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the House of Representatives of the United States:*

Conformably with a resolution of the House of Representatives, of the 6th of this month, I now lay before that House a report received from the Secretary of State, with the copy of the correspondence referred to, and requested by that resolution.

JAMES MONROE.

WASHINGTON, Feb. 12, 1818.

The Message was ordered to lie on the table.

A Message was also received from the President of the United States in relation to discriminating duties, and extra duties paid under the

convention with Great Britain.—Referred to the Committee of Ways and Means.

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The remainder of the day was spent in Committee of the Whole on the bill to establish a uniform system of bankruptcy throughout the United States.

Having made a motion to strike out the first section of the bankrupt bill—

Mr. TYLER, of Virginia, said, that he was governed, in submitting this motion, solely by a desire to economise time. Should the Committee be opposed to the principle of the bill, there could be no necessity to delay its rejection, or impose on its friends the task of amending its various sections. It is always with embarrassment, said Mr. T., that I present myself to the view of the House, in the debate on any subject, and nothing could be better calculated to increase that embarrassment, than the circumstance of finding myself in opposition to the honorable member from Pennsylvania, (Mr. HOPKINSON,) who so ably and elaborately addressed you on yesterday. I am a novice in argument; he, an old and experienced veteran. My thoughts, which are our forces in debate, are undisguised and undisciplined; those of the honorable gentleman are well trained and regularly arranged in order of battle. I have ventured my little skiff upon the water, and when it shall sink and be forgotten, his more noble bark will have outlived the storm, and floated in triumph on the waves. So be it, sir. I have obeyed the influence of duty in having presented this motion, and I shall submit, composedly, to any result.

The honorable gentleman, said Mr. T., on yesterday, demanded of this House, to carry into execution all the powers of the Government, and represented it as our bounden duty, in every instance in which the Constitution gave the power, to exercise it. The gentleman's position leaves us no alternative. Our discretion is taken from us; our volition is gone. If the gentleman be correct, we are stopped at the threshold of this inquiry; inasmuch as the Constitution confers on Congress the power to adopt a uniform system of bankruptcy, according to his doctrine, we are not to inquire into the expediency of adopting such system, but *must* yield it our support. Here, sir, I join issue with that gentleman. What, sir, asked Mr. T., is the end of all legislation? Is it not the public good? Do we come here to legislate away the rights and happiness of our constituents, or to advance and secure them? Suppose, then, by carrying into effect a specified power in the Constitution, we inflict serious injury upon the political body; will gentlemen contend that we are bound by a blind fatality, and compelled to act? Sir, such a doctrine cannot be supported even by the distinguished talents of that gentleman. The powers of this Constitution are all addressed to the sound discretion of Congress. You are not imperatively commanded, but authorized to act, if by so acting the good of the country will be promoted.

Having, as I trust, said Mr. T., overthrown this position of the honorable gentleman, I will now, by the indulgence of the Committee, proceed to investigate the propriety of adopting this bill. If there was no other objection to its adoption, the circumstance of its conferring exclusive privileges on a particular class of society, would secure to it my opposition. Sir, I am in principle opposed to the grant of exclusive privileges. The very nature and genius of our Government is opposed to any such grant. But even if I was disposed to yield this principle in any case, I could not do so in this. Are not the farmer, the manufacturer, the mechanic, equally entitled with the merchant, to your protection, to the benefits of your laws? This bill is confined to the merchant. What has the agriculturist and mechanic done to forfeit their claims to your justice, your liberality? Look to the events of the late war. Who fought your battles? Who conquered at New Orleans? Who, in fact, caused the star-spangled flag to wave in triumph over the proud cross of St. George? Sir, said Mr. T., let me not be understood as detracting from the merit of the merchant, many of them, also, deserved well of the country. Their money was liberally contributed to relieve our necessities. They furnished the sinew; and the other classes to which I have alluded, the bone and muscle. They are all, then, entitled to your patronage. Why, then, let me ask, is this bill limited to only one class of the community? You are told that, by relieving the merchant of his debts, you offer him new stimulants to industry and exertion; that, when a load of debt is pressing on him, his energies are cramped and oppressed; that, by relieving him from such pressure, they are again awakened into a new existence. With the honorable man I should hope, sir, said Mr. T., that when involved, a desire to meet his engagements, to comply with the principles of integrity, would be found a sufficient stimulus to exertion. But admit that it is not so, I ask, sir, if the farmer, the mechanic, the manufacturer, would not be operated on in the same way with the merchant? Would not the same inducements produce on each the same effects? Are they composed of different materials, or made up of the same flesh and blood? I esteem the conclusion inevitable.

But, continued Mr. T., it has been contended that this indulgence should be extended to the merchant, because of the superior risk he encounters in his adventures. His property is afloat upon the ocean—a flaw of wind is enough to ruin him; at this moment he is rich, at the next poor. True, but is not the farmer and manufacturer intimately connected with all his transactions? Who furnishes the articles for his adventure; who loads his ship? Sir, the interest of each class is connected and interwoven with the interest of every other class; and if the merchant fails, he brings ruin also upon the agriculturist and manufacturer. But, it has been insinuated, and may be hereafter urged, that, *ex vi termini*, a bankrupt law can only apply to merchants; that the framers of the Constitution must have received the word as

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it is received in England. Although I am ready to admit that reference must be had to the common law, in order to obtain the proper signification of legal terms used in the instrument under which we act; yet, I cannot well imagine why we should resort to the statute law of that country, especially when the States of this Union had adopted bankrupt laws, not in name, but in substance, prior to the formation of this Constitution. The civil law also was well understood by those who framed this instrument, and that law, in this respect, applied to all classes in the community. But, even if we resort to the English law, the courts will be found to have decided many persons not merchants to be embraced in its provisions. The honorable gentleman from Pennsylvania gave, in the course of his remarks, a conclusive argument on this subject. He stated, and stated correctly, that inasmuch as each State had an insolvent or bankrupt system of its own, from whence evil might arise, the authority was vested in Congress to adopt a general regulation for the purpose of insuring harmony among the States, and introducing a uniform system of justice. From all this, I conclude that the law ought to be general in its provisions, and made to embrace every class of the community.

But, sir, said Mr. T., I will candidly state that if the present bill was general in its provisions, yet I could not yield it my support. I regard it wrong in principle and injurious in its detail; and I contend that, if passed in its present form, it would not operate beneficially to the mercantile interest.

Does the prudent trader require its provisions? He never ventures upon any hazard to the whole amount of his capital; he is satisfied with a regular, slow, but certain profit. If visited by misfortune, arising from any unforeseen occurrence, he has, in the general, taken care to reserve a sufficiency to meet his engagements, and to act the part of an honest man. These are the men who constitute the pride and boast of your mercantile character. They require no legislative provision, operating as a receipt in full of all demands; and if such men should, against all reasonable calculations, be unfortunate, their creditors will understand their real interest, and indulge them on their contracts. Will not the creditor understand his own interest as well as the honorable member from Pennsylvania? Will they not also know that their debts will not be discharged by confining the body of their debtor in jail? Sir, a prison is no place in which the debtor can retrieve his ruined fortune, or comply with his engagements. I appeal, said Mr. T., to the experience of every member of this Committee, if it be not a fact, that indulgences are almost in every case, in which an honest man has fallen into misfortune, extended to him by his creditors. I repeat, then, that the fair and prudent trader does not wish for this law. Upon whom, then, will it operate beneficially? Who will seek refuge under its provisions? The bold, dashing, and thoughtless adventurer. He commences life without capital; his first flight is made with paper wings;

he goes into bank, obtains an accommodation—secures, as far as practicable, his endorser—runs in debt to the artist—purchases, on a credit, from the farmer and manufacturer, and puts to sea. If successful, he complies with his engagements, and is rich; if otherwise, he takes a receipt in full under this bill—pays off thousands by an oath, and is in no worse condition than at first. He is then thrown back again upon society, not to pursue a more prudent course, but to react his former extravagances. You have made him more adventurous by this bill; he even now deserts the insurance office; for, by so doing, if successful, he secures to himself the amount of the insurance, and, if otherwise, he resorts again to the wholesome medicine of this law. Mark him still further: to-day he is insolvent; to-morrow he is free from debt. He again adventures. Let us imagine him successful. The winds have been more prosperous—the cloud no longer lowers; he is rich. What is his course then? Does he pay off his debts? No, sir; he dashes through your streets, said Mr. T., in all the pride of wealth, and laughs in the face of his, perhaps, starving creditors. Is this honorable? And yet is not this bill calculated to produce these effects? Can it be regarded dishonorable in him to pursue this course when your law points to it, and justifies him in it? Is it not to be presumed that your laws are based on honor, on justice? I charge gentlemen to beware lest, in their exertions to ameliorate the condition of the debtor, they inculcate dishonorable and unworthy principles. Sir, said he, the member from Pennsylvania exposed to us on yesterday the evils arising under the existing State systems. In order to excite our sympathies in favor of this bill, he told us that at this time there were 70,000 insolvents in the United States. I did not understand whether merchants alone were taken into the estimate, or whether all classes were embraced. But, in order to have derived any weight from this view of the subject, ought not the gentleman to have contrasted our situation with the situation of some country in which this, his favorite scheme, is in operation? Look to England, the country from which we borrow this system; there they enjoy the full benefit of this bankrupt law, and yet I will undertake to say that in England alone, unconnected with Scotland and Ireland, and whose population does not, by many millions, exceed our own, the proportion of insolvents in that country and this will at least be found to be in the ratio of a thousand to one.

Mr. TYLER then said, that, in his judgment, this law was calculated to introduce fraud to an extent certainly never witnessed in this country. Sir, said he, will not this bill, should it pass into a law, become here what it is on the other side of the water? What has been the course of things there? Has the embezzlement of effects been prevented there? The Parliament has gone so far as to make the concealment of effects by the bankrupt punishable with death; and yet how often is the crime committed? Every inducement is held out by the law to dishonesty—a starving wife and children implore bread and

protection at the hands of the husband and father; your law tempts him to secure it for them by concealing his money or effects, by proclaiming to him, "be secret for some three or four months, until the present storm has subsided—until your creditors have given you a certificate of discharge, and then you may in safety enjoy the fruits of your dishonesty." But, sir, what more does it do? Why, it holds out the temptation in the one hand and the punishment in the other. Conscious of the difficulty of preventing fraud, in what way does this bill undertake to guard against it? You first put the man upon his oath; you then hold out inducements to informers; and even this is not all. No, sir, said he, you then call upon the wife to give testimony in condemnation of her husband, thereby breaking up the marital bonds, and altering the established laws of society. The lovely, delicate, trembling female, is rudely dragged before the tribunal created by this bill, and reduced to the condition of either swearing falsely, or of convicting her husband of perjury. Away then, say I, with a system to be executed only by such means. Sir, said Mr. T., if you wish your citizens to be honest and virtuous, do not, by your legislation, hold out an invitation to a different state of things. A republican Government can only be supported by virtue; and the end of all our legislation should be to encourage our fellow-citizens in its daily practice.

"Once a debt, always a debt" is a sound rule of policy. The honorable gentleman (Mr. HOPKINSON) asked if we would place the debtor at the mercy of the creditor. No, sir, said Mr. T., it does by no means follow from the rule I have laid down. Imprisonment is not necessary to enforce it. Let me refer you to the law of Virginia. We have adopted in that State the civil law rule. The execution is levied on the body; the debtor gives notice of his intention to the creditor, delivers in a schedule of his effects on oath, and is discharged from confinement; but the debt still exists; if at any future day he acquires property, he is still liable; nay, if he has sworn falsely, and he is not detected until his death, even then the creditor levies his execution and obtains his due. I contend then, said Mr. T., that the inducement to dishonesty is nothing in magnitude to what it is under this bill. But, sir, the honorable gentleman stated that the debtor had it in his power, under our State laws, to select the creditor who should be first paid; is it not so, also, under this bill? may he not with a perfect knowledge of his situation pay off a favorite creditor, before he commits any act of bankruptcy? The gentleman further says, that the debtor may convey his property to a friend, for his own benefit, with a view of defrauding his creditors. I know not what system of jurisprudence prevails in Pennsylvania, but in Virginia the whole transaction could be investigated in a court of equity and the deeds rendered void. But, sir, said he, in order to give to this bill the support of this House, it is not only necessary to point out defects in existing systems. Gentlemen must prove that this scheme is as nearly

perfect as can be expected. Its warmest friends cannot pronounce it perfect. Let me remark here, sir, said Mr. T., that nothing is more difficult to prevent than fraud—it works under cover, and hides itself from the eye of legislation. If you attempt to punish it, you only drive it to seek out paths more unfrequented—labyrinths the more inexplicable; I do not even ask therefore for absolute perfection, but the imperfections of this bill are obvious and palpable.

Sir, continued Mr. T., I have another strong objection to the bill; I regard it as the most fruitful, possible source of litigation. Look again to England for experience. I submit it to legal gentlemen to say if it has not produced there more litigation than any other subject whatever. The bench of the jurist groans under folios containing innumerable cases arising under the laws of bankruptcy in England. Look to our own short experience of three years, when a similar law was in operation here; cases arising under it have not yet been settled, although fifteen years have passed by since its repeal. A bill has passed this House at this session, appointing new commissioners in some case where almost all originally appointed have departed this life. The fact is, sir, that the commissioners and assignees are generally the only persons benefited—they run away with the money and leave the empty purse to the creditor. These, then, are some of the happy effects of this holy bill.

But, sir, the honorable member from Pennsylvania has urged upon us the passage of this bill, on the ground that a preservation of union required it. You must have a general system, he tells you, for the purpose of increasing harmony among the citizens of the different States. Let me tell you, sir, that instead of producing harmony, I believe that this bill would be an apple of discord to the people. How would those classes excluded from its operation like the discrimination it proposes to make? Would the mechanic or farmer like to be told by the merchant, "you shall linger in jail for your debts, while I am released under the law of Congress?" Sir, said Mr. T., I do not fear a dissolution of this Union. These States are bound to each other by a unity of interest, and their strength will, it is to be hoped, endure forever. I apprehend more danger from a consolidation of power here than from anything else. We are not satisfied with our powers as they are, but we are ever evincing a restlessness to increase them. Project after project is laid upon your table, by which we ask of the States a surrender of some new power. Upon the whole view of this subject, then, Mr. T. said that he was disposed to leave this question to be settled by the Legislatures of the different States. He observed, by way of conclusion, that he had been induced to take part in this debate from his peculiar situation. He represented a district partly commercial and partly agricultural; he felt a strong desire to promote the interest of every part of the community; he had, however, never heard a whisper in Richmond from any merchant, that they

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wished any law of this sort. From my knowledge of the character of the merchants in that city, said he, I feel satisfied that they do not wish to seek shelter from their engagements under a bankrupt law—they ask for no law operating as a receipt in full to their creditors. Let me give you an instance of their course, as presented by the papers of that city, and I believe truly presented. Two young gentlemen commenced the mercantile business, and from some untoward occurrence, failed in trade; their creditors assembled, compromised with them, and discharged them from their demands; they commenced business again and were successful, and they have torn up their discharge, and paid up every cent of their former debts. This is the conduct which will characterize the truly honorable merchant. But this bill, as I have said before, will render honorable a different course. Leave men, then, sir, to follow the dictates of their own integrity, and your course will accord with the admonitions of policy and wisdom.

Mr. HOLMES, of Massachusetts.—Bankruptcy is the distribution of the property of an insolvent debtor among his creditors, in proportion to their respective claims. The object is to discharge the unfortunate merchant or dealer, after he shall have delivered up his property for the use of his creditors.

Were this to be confined to the honest and fair dealer, and not liable to be perverted to purposes of fraud, I would most cheerfully aid in the design. The motives of the advocates of the bill are unquestionably laudable, and many worthy objects would, undoubtedly, experience a salutary relief by its operations. But as this bill contemplates a system, it is our duty to consider its future effects.

In countries where buying and selling are the principal employment, where much active capital is needed, and transfers are frequent, it may be good policy to encourage and protect enterprise. If the nation is concerned in the success of traffic; if the habits of the people lead them to other employments, less beneficial to the interest, or consistent with the policy of the Government, to protect the unfortunate dealer might be deemed correct. England is a nation of merchants and manufacturers. The latter depends upon the former for a market. The hazard requires some security, and a bankrupt system may be necessary. Holland affords very little trade from her home productions. Her active capital is rapidly fluctuating. She may need a bankrupt system to encourage her trade, and inspire her adventurers with confidence. If the spirit of enterprise needs to be roused, if speculation languishes, if stock on hand accumulates, and foreign produce is scarce and dear, it may be doubted whether some stimulus is not wanting to inspire the merchant.

In a country, commercial as ours, the aid of the Government is required when commerce is dangerous, and its avails are wanted. The restrictions imposed on us by the belligerents, and the consequent necessities and dangers of commerce, might have required the encouragement of any

merchants but ours. The British and French had united to destroy our trade; to cross the ocean became exceedingly hazardous, and the risks of the merchant were imminent. To have encouraged credit, by giving the debtor a pledge against losses, might have been policy. The prospect and danger of a war might have produced an additional inducement.

But in time of general peace, when trade is seeking its accustomed channels; when we have more carriers than can find employ, and more importations than can find a market, to absolve the debtor from debts which he shall contract, is holding out a lure to rank speculation, highly injurious to the interests of society.

It is a general principle, that good policy requires that those who promise should pay. The reason must be good and the necessity great which allows us to dispense with it. Neither the distresses of a few, nor the clamors of many, should induce us to pass a law, which absolves men from their debts. The effects on society should be considered before we venture on such an experiment.

I represent, sir, many worthy, respectable merchants and dealers, whose interests I would cherish; and some unfortunate ones, whose condition I would relieve. Could the honest child of misfortune exclusively receive the benefit of this act, I would vote for its passage. But I know the effects of the former system, and I fear the same result.

Are gentlemen willing that this act shall be merely retrospective? Will they confine it to the relief of those already in distress? Will they be content to apply the sponge to debts already contracted? There would be strong reasons for this. The men incurred misfortune in times of great hazard, and when the country and the revenue required their enterprise. Many made fortunes, but many were involved in ruin. I regret to see these men pressed down to the dust, without the hope of relief. But even such a measure is attended with its difficulties. It might afford inducements to others to engage in rash and imprudent enterprises, in the hope of similar aid.

But present relief is not the object of this bill. You are to establish a system, and it is proper to consider its effects when viewed prospectively; in this view it has been chiefly considered by the gentleman from Pennsylvania, (Mr. HOPKINSON,) its principal advocate. The labor and industry which that gentleman has bestowed on this subject, and the able manner in which he has explained and defended it, demand our respect and our candor. Probably he has made it as perfect as it can be, and surely has represented it as perfect as it is. I will endeavor to examine some of its prominent features, and consider some of his reasons in its favor.

The gentleman intimates that the States have parted with their right to enact a bankrupt system, and, as they have delegated the power to Congress, we are bound to exercise it. Sir, is it certain that we must exercise every power granted in the Constitution? Have we no discretion whether the exercise of the power be necessary,

nor at what time? Is the Constitution imperative upon the Legislature, that they shall instantly put in action every power granted by the Constitution? Then truly we must pass the bill, whether we will or no. But I apprehend that a fair construction of the Constitution will scarcely warrant this doctrine. Congress shall have power "to fix the standard of weights and measures;" this has never been done, nor has the duty ever been deemed imperative—"to borrow money;" but I should think they had some discretion whether or no it were necessary—"to provide and maintain a navy;" but only as in their discretion it shall be needed—"to raise and support armies;" but surely they are not always obliged to have an army—"to declare war;" but, upon the gentleman's reasoning, we must do it immediately, and of course be always at war, because we are obliged to exercise all our powers.

But the gentleman further contends for the necessity, on the ground that the States are obliged to resort to insolvent laws, and that the exercise of this power by the United States will prevent them. I confess, sir, I do not perceive by what process of reasoning he comes to his conclusion. If this power given to the United States, of itself, and whether exercised or not, prohibits the States from passing bankrupt laws, creating this law cannot do more. But neither this power nor any other power delegated to the United States, is exclusive, unless the States be prohibited its exercise. If Congress should never see fit to fix the standard of weights and measures, will it follow that the States cannot do it, and that we can have no weights and measures? But if insolvent laws are bankrupt laws, the power in the Constitution, upon the gentleman's own hypothesis, prohibits them in the States, whether this power be exercised by us or not. If they are not bankrupt laws, to exercise the power given by the Constitution cannot affect them. This law, therefore, can have no effect upon the insolvent laws of the States, and they would remain unimpaired, notwithstanding this act. The result would be, that in those States where there are insolvent laws a debtor might have the benefit of both; or, failing to obtain a discharge under one, he might fly to the other. This double system of relief would, it is feared, operate as a double system of fraud; and we are told that these insolvent laws are most fraudulent in their effects. Now, the design of both is the same: the object is to relieve the debtor by a distribution of his property. The extent of this relief constitutes the only difference, and the motive to fraud will probably be in proportion to the relief afforded.

But it is said that the creditor as well as debtor is to be profited by this act. However beneficial it may be to the merchant who is a creditor, that a debtor should become a bankrupt, I apprehend that creditors generally would experience very little profit from it. If even among merchants both are benefited, I strongly suspect that the public would be injured. No encouragement to speculation is necessary. If both borrower and lender have stronger inducements, there will be

more running in debt, and consequently more bankrupts. The ardor for speculation is already too strong, especially among the young men of small capital: if their progress is slow and tempered with caution, their prospects are sure.

The gentleman speaks feelingly of merchants; and for this sensibility for the unfortunate, I accord him my thanks, and join in his sympathies. But I cannot agree with him, that the merchants are entitled to this boon for having, as he says, paid millions into your Treasury. Sir, who furnished the funds? I have heard, until I am disgusted, the heretical, exploded doctrine, that it is the merchant who furnishes and pays the impost. But what is the source of this revenue? Is it not the product of your lands, your waters, and your labor? Whence the cargo exported which purchased the cargo imported, upon which the impost tax is paid, but from the sources which I have named? And, sir, who but the consumer of the imported article pays the tax? Another benefit which we are taught to expect is, that when a man finds he is failing, he will be induced the sooner to stop. I should draw directly the opposite conclusion. If he proceeds, he may disentangle himself; but, should he fail at last, he has nothing to lose: his debts are discharged; he may begin again with equal prospects. Instead of encouraging a man to stop, it would surely encourage him to go on.

Could this single benefit result, an equitable division of losses, without increasing hazard and fraud, I would vote for this bill. But the experience of the last bankrupt act has taught us lessons which ought long to be remembered. We then saw men rich to-day, bankrupt to-morrow, and next day in full business and great style, while the poor farmer or manufacturer, who had been ruined by their extravagance, must suffer the penalties of the law in a jail.

But we are further told that it will put us on an equality with foreigners. If the act be fairly executed, and the neighbors and endorsers of the bankrupt derive no benefit from their proximity, the distant creditor will be most benefited. If so, the American creditor of a debt in Europe, where there are bankrupt laws, is on better ground than the European creditor of a debt in America, where there are none. But if the neighboring creditor has, from his situation, an advantage over him at a distance, it must be from the facilities to fraud which the law furnishes. To restore those to freedom who are now in thralldom; to give effect to the principles of humanity and religion, are objects worthy of an enlightened and benevolent mind. Mercy is an attribute of deity; it is twice blessed—in him who gives and in him who receives it. But mercy has no fellowship with iniquity.

If, while we relieve the distressed, we encourage fraud, we are not the faithful representatives of the people.

Thus, sir, I have endeavored to answer some of the prominent reasons in favor of this bill, given in the very able argument of the gentleman from Pennsylvania, (Mr. HOPKINSON.) The evils of



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which he complains are more than balanced by the dangers with which this system is fraught. New laws require much judicial exposition, and are a fruitful source of litigation. Many lawsuits must be originated, and much time and property consumed, before we can arrive to anything like a regular system. The single fact that the other act has been repealed twelve or fifteen years, and yet this very session we have been obliged to pass a law to revive a commission under that act which is not yet finished, and the commissioners dead, is pretty strong proof that litigation and delay are the necessary attendants of such a law.

But, sir, this is not all. You are creating new and extraordinary tribunals, unknown to the people. Boards of commissioners, with extraordinary powers to search, seize, and imprison, are among the ministers of this law. You tempt men to commit crimes, and are obliged to increase the punishment as you create the temptation. The right to trial by jury is impaired, confidence is destroyed, and vice and immorality are encouraged.

Is not enterprise sufficiently active, is not temptation to speculation sufficiently strong? This act will seduce thousands of industrious and virtuous young men from safe and honest employments, and plunge them into speculation, which will ruin their friends and destroy their morals.

To take the case of an existing bankruptcy, and try the operation of this bill upon it, is not treating the subject fairly. Let the merchant or trader commence with the prospects which this bill affords before him, and I ask what will be his course? You can punish him for frauds in concealing his effects, but not for improvident or rash speculations. He may be successful, and make his fortune; or he may fail, and his debts will be discharged by the operation of the law. Where he has everything to gain and nothing to lose, he will incur any hazard at the expense of his friends, his honor, and his morality.

This bill will be a substitute for insurance. If he can save the premium, he saves it to himself; if the ship is lost, she is lost to the creditors.

Besides, sir, it promotes idleness, and turns men from agricultural and manufacturing employments, into business, for which they are not fit, and which they do not understand. Though labor is essential to virtue, we are too apt to esteem it as a curse. To young men the temptation is strong to commence trade, and when this can be done at the risk of others, it is irresistible. Hence, sir, your law will draw thousands from the pursuits of manufactures and agriculture, and place them where they will be worse than useless. They will run all hazards; they will even become smugglers and law-breakers, if they can do it upon other men's means.

But this bill is designed exclusively for one class of citizens. The manufacturers and farmers are excluded. Were there no other objection, this odious discrimination would, in my mind, be fatal. If the bill is necessary, it is so for all; and why discriminate? While the mer-

chant is relieved, and his debts are discharged, the farmer is in prison on account of the failure. Is this right? Is this that fair and equal justice which is due to all the citizens? You will include brokers, a class of men not entitled to the greatest commiseration.

These, I suppose, are entitled to favor from the great and necessary risks they incur. But the farmer, who is content with small and almost imperceptible profit, is ruined by the speculations of the broker, and he is entitled to a prison, and the broker to freedom. Sir, let us strike out the first section of this bill, and thus prevent a system so full of mischief and destitute of good.

Mr. PINDALL, of Virginia.—The clause of the Constitution of the United States, which enables Congress to establish uniform laws on the subject of bankruptcies, furnishes an anomaly, when considered in connexion with any source of interpretation to which we are authorized to resort. In settling the meaning of other phrases or technical terms found in this instrument, we are accustomed to resort to the laws of nations; the maritime law, the common law of England, the civil law, or some other unwritten law, or known rule of interpretation. But the complex idea represented by the term *bankruptcy*, has no determinate development in either of these unwritten laws, or any common-place source of construction. The expression itself, as well as the subject-matter to which it is applicable, being derived, at least to us, from the laws of England, as enacted by the Parliament of Great Britain, I am constrained to admit our obligation to recur to these British statutes, when seeking the objects of the legislative power conferred on Congress. But, having thus arrived at the object or subject-matter of our delegated power, it must on all sides be conceded, that its modifications and conditions (if introduced into any code) will depend on the legislative discretion of Congress.

The bill now before us was introduced into Congress a year since, and the friends of the measure, having taken ample time to digest its several parts, I had expected, that, in introducing this elaborate system from Great Britain, some alteration in its form, or modification in feature, would have been suggested. It seemed quite improbable, that a code so extensive in its principles and complicated in its details, formed on the English meridian, would be suited in all its parts to this extensive country, differing in so many respects from the British Island, or rather to these confederated countries, already regulated by systems of laws, differing materially, not only from British laws, but from each other. In undertaking the task of reading the fifty pages on which the bill dwells, I had been flattered with the hope, and probably the vanity, of finding something of the homespun, some indigenous feature which might at least gratify an American taste. My anticipations, however, have been disappointed; the bill is presented to us in the shape of its first importation from Europe. It wears the English aspect with which it was embarked from the metropolis of the British empire.

The terms of the Constitution of the United States certainly permitted the Judiciary Committee to report the bill in this shape, and as such I am willing to enter into a discussion of its merits. But, permit me first to notice some of the remarks with which the gentleman from Pennsylvania (Mr. HOPKINSON) has introduced this voluminous bill to the attention of the House. That honorable member, if I understood him, holds Congress bound to enact a system of bankrupt laws in consequence of that clause of the Constitution which enables it to legislate on the subject. It is admitted that the framers of the Constitution might have imposed such an imperative obligation on Congress, but they have not done so. The power to pass laws on the subject of bankruptcies is conferred in terms of the same import in which the numerous other powers of legislation are dealt out by the Constitution, and no one will venture to assume, as a general principle, the obligation of Congress to pass laws in every case where it may have a right to do so. The framers of the Constitution had themselves the power to legislate on this subject, and any detailed practical regulations they might have inserted in the Constitution would have been carried into execution as the supreme law. But the convention omitted to make any such regulation, and was contented to refer the power it possessed over this object to Congress, and the Congress, being now possessed of that power, must determine for itself as to the propriety of its exercise. If the honorable member only intended to insist that Congress would be under a moral obligation to legislate of bankrupts whenever the circumstances of the country required such a measure, I will yield the proposition, but by this, without more, the bill under consideration acquires no aid.

Although I have read this voluminous bill with all the attention of which I am capable, I cannot boast of any intimate knowledge of its practical details, by reason of a want of experience with regard to the objects of commerce which it professes to regulate. It is, however, incumbent on the friends of this bill to give us all the light which may enable us to determine whether it is proper to innovate on the pre-established laws of the country; and, until this be done, I give the gentlemen notice, that in every charge of ignorance of commercial objects, I am furnished with a new weapon of attack against the bill, for I never can and never will vote for a system of laws while ignorant of its utility. Many of the States of the Union (and I believe the greater number, if not all,) have adopted regulations with regard to insolvencies. These insolvent laws have been passed under circumstances of a more intimate knowledge of the condition and wishes of the people of the respective States than Congress can boast of, or is likely at any time to obtain. The people, from the time of the Revolution to the present day, have been contented with these State systems, which are preferred to bankrupt laws, by reason precisely of all those circumstances in which they respectively

differ from bankrupt laws. The State which I have the honor to represent in part, the policy of which is not dissimilar to that of some other States, has adopted the statutes of Elizabeth against frauds, with insolvent laws, which permit unfortunate debtors to be exempt from imprisonment, on surrendering their effects for the benefit of their creditors. It is true, that any estate the debtor may acquire after his discharge from imprisonment, may be made liable to the payment of his debts, but I have never heard complaints of the injustice of such a measure from either creditors or debtors. The courts of law yet adhere to the old common-law notion of giving the preference to the diligent creditor who first applies for justice, and suffering the dilatory suitor (where the effects of the debtor are insufficient) to abide by the consequences of his own neglect. But our court of chancery is open to a bill of discovery and account in behalf of creditors against insolvent or fraudulent debtors, and not only relieves against fraud, but has a practice of marshalling debts and apportioning effects, with as great justice and small expense as could possibly be effected by the bankrupt system now proposed. The evils so eloquently denounced by the honorable member from Pennsylvania, show that the laws of one or two States, as regards frauds and insolvencies, are productive of inconveniences, and should have a correction from some quarter. Why not obtain relief from the State Legislatures? Their power to administer the proper remedy cannot be doubted, and their disposition to do so ought not to be called in question. True, Congress has the power to make a system of bankruptcy, but may not, and I hope will not, think it expedient to exercise that power at present. Whenever this authority is carried into execution, it is admitted on all sides, that the system must be uniform, and will, of necessity, either totally or partially repeal the insolvent laws of all the States. But one, two, or three States, should not, by reason of inconveniences peculiar to themselves, and which they have the faculty of themselves to obviate, induce this Government, by the introduction of this huge code, to which the people are strangers, to rob all the other States of the Confederacy of the familiar and well-tryed laws, which have always been popular because peculiarly adapted to the local habits and circumstances of the places in which they obtain. The few States that have sores of this sort, are not entitled to bring their calamities into common stock, when it is so evident that a mere exertion of their own free will can furnish an adequate relief. If the laws of Pennsylvania are deficient as regards frauds and insolvent debtors; if this deficiency is willing on her part; if she boasts of her contempt for courts of chancery that have been so instrumental in other States in detecting frauds, and marshalling claims against unfortunate debtors; shall she be admitted in this confederate council to produce her wretched polity, and call for a remedy which, while it may administer some sort of comfort to her, entails a thousand

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strange and odious regulations on the neighboring States, who have troubled you with no complaints in this respect? Will any State that voluntarily mangles her own police, and of choice assumes an odious attitude, be entitled to demand the punishment of all her neighbors, by the application of caustics suitable only to her own condition?

The gentleman from Pennsylvania has convinced me of the inefficiency of the insolvent laws of that State, he has shown that those laws are ill executed, that the application of insolvents for relief are so numerous as to require the daily labor of the courts, that lassitude prevails in the courts, that the notice usually served on the creditor is a formal mockery, and that hundreds are availing themselves of the relief of the insolvent laws, whilst their creditors make no attempt to sift the good faith or purity of such transactions. I will ask the gentleman to reflect whether the General Government can cure such of these evils as transcend the authority of the State Legislature. A bankrupt system will transfer the jurisdiction of these cases to the federal court; but that court will consist of the same description of persons with the State courts, and the laws of the United States compel the federal courts to adopt the rules of practice which prevail in the State courts. So much, therefore, of the gentleman's complaint as imputes the disease to the numerous instances of insolvency, or the neglect of creditors or their attorneys, or officers of court, or a relaxed practice, will admit of no relief from the exertions of this Government.

We are told of the great advantages England has derived from the bankrupt system; if this be a consideration to induce us to adopt that system in its true English dress, then let us have it as England took it. The system in that country stole into existence under the ambush of four or five centuries. I am not convinced that England could have borne, or that the people of that country would have suffered the sudden and instantaneous introduction of that complex and multifarious system; and in that country the attempt to make a total revolution in the mercantile law by a single dash of the pen, as is instanced here, would have required an exertion and risk which no politician has ever encountered. Our country, as well as England, may be able to bear up under this system, but she must do so, as England has done. We have somewhere read or heard of the robust laborer, who could carry an ox on his shoulder, but he acquired the power to do so by beginning with the animal whilst a young calf. So the heavy bankrupt code has gradually increased to its present bulk by nineteen different acts of Parliament, made in the reigns of twelve successive princes, and graduated, from time to time, to the public strength and circumstances.

The gentleman from Pennsylvania has, I think, carried us to the 34th year of Henry the 8th, for the first act of Parliament on the subject of bankruptcy, but there is an act of Parliament on that subject, enacted before the 34th year of Henry the 8th, which must have escaped the attention

of the gentleman, as I am unable to discover that any of its provisions have been adopted by the bill now before the committee. I mean the statute made by reason of the ill practices of the Lombards, many of whom were in the habit of contracting debts, and absconding from the kingdom without paying those debts. That act provided, that where one of them contracted a debt, and proved insolvent, the other merchants should be liable to the creditor. This act was, by its terms, confined to the Lombards, or guilds, or companies, but in truth extended to all the merchants engaged in foreign commerce, because all so engaged then held the liberty of trafficking by grants from the Crown, or license of companies or corporations engaged in particular branches of trade, and such Englishmen as embarked their capital in foreign trade, effected their object by investing their money in the stock of the Lombards or guilds, or by trading under their protection or license. If the citizen, denizen, and alien merchants of our seaports, could persuade themselves to submit for half a century to a regulation similar to this act of Parliament, and to pay to the yeomen and artificers all the debts contracted by the merchants who might fail, they might acquire, with the people of this country, such a popularity and influence as to induce the Government to place them in a condition superior to that of our other fellow-citizens. To such a test of patriotism our merchants would not willingly submit, nor would any one be so illiberal as to require it. Yet the submission without murmur to that severe regulation was a condition precedent the acquirement by the merchants of England of those odious, exclusive rights which placed them above His Majesty's other subjects—the same privileges that are so modestly demanded of our Government by the alien and citizen merchants of our trading towns.

The honorable gentleman from Pennsylvania has ushered this bill before us with a description of its character and origin, which certainly entitles it to the greatest attention. The principle of the bill, he says, is not derived from the bloody law of the twelve tables, which commanded that the body of an insolvent debtor should be cut in pieces and distributed among his creditors in proportion to their demands, or that inhuman law of Rome, which subjected him to imprisonment, hard labor, and stripes, and his family to slavery; but is derived from the mild law of cession introduced by the Christian emperors, which compelled the unfortunate debtor only to surrender his effects for the benefit of his creditors, and I understand the gentleman to state that this law of cession had its origin in, and owned its character to, the Christian religion.

If this bill was entitled to the mild character affirmed of it, (which is not admitted,) yet it might be difficult to deduce its provisions from the Christian religion. The New Testament contains no commercial regulations, nor does it furnish materials from whence a system of bankruptcy could be drawn. Indeed, the only instance of speculation among the primitive Christians or

Apostles, of which we hear, would not probably have dictated a mild commercial code. Judas Iscariot was the only person among them who could have claimed admission into the privileged order of merchants; he carried the money bag, and possibly was of the description of persons called dealers in exchange, as mentioned in the first section of this bill; but his proving a traitor and *felo de se* could not have given the early Christians any very exalted notion of the occupation by which he imbibed the avarice which led to his guilt and death. We are commanded, it is true, to forgive those who trespass against us; but if the Government, under pretence of complying with this command, grants a certificate to the merchant which shall operate as a receipt against a debt due a Christian, that Christian himself would be thereby deprived of the opportunity of fulfilling his duty, as it would be impossible for him to forgive a debt, or comply with the command, when the debt itself is annihilated by the act of Government. But if the gentleman from Pennsylvania, who stands first in an honorable profession, should be consulted with regard to this command, he would probably say that there was a difference between trespasses and debts, and that a command to forgive those who trespass against us, did not extend to the extinguishment of debts. I, sir, sincerely profess Christianity; and, inasmuch as the gentleman has connected the origin of the system of this bill with that religion, I pledge myself to vote for the bill whenever he shows me any command to do so, on the authority of the New Testament.

Sir William Blackstone extols the mildness of the bankrupt laws with as much vehemence as the friends of this bill can do. He, too, deprecates the bloody twelve tables and the law of imprisonment of unfortunate debtors; after which he introduces the English bankrupt system, by which the bankrupt is punishable with death for seven different offences, which were never before considered as crimes, and is placed in the pillory and has his ears nailed and cut off for an eighth offence, which the good old common law considered as an innocent act.

I will for a moment yield all opposition to the principle from which the gentleman from Pennsylvania has started; but would that honorable member abide with me on that principle, and not forsake me, whilst on his own ground? I will at all hazards try the experiment. That gentleman, after rejecting several cruel and awkward systems of polity, has expressly adopted the Roman law of cession as correct in principle, and the foundation of the policy he seeks to introduce. To this then I yield my assent. The Roman law of cession, however, only exempted the body of the debtor from imprisonment on surrendering his effects for the benefit of his creditors, and any estate he might thereafter acquire was subject to his creditors' demands. Hence it is evident that the bill now before us is essentially different from the law of cession, which more intimately resembles the insolvent laws which are already in force in several of our States, and may be enforced in

all of them, without the interference of the Government of the United States.

This bill, if passed, will introduce a system of exclusive privileges and extraordinary liabilities, as respects a particular order or class of men. It is therefore odious. If it could be shown that the privileges the merchants are to enjoy above those possessed by the rest of our fellow-citizens would not overpay them for the extraordinary liabilities they are to incur, yet my objection would remain. The privilege of being exempt from the ordinary laws of society ought not to be granted, except in cases of imperious necessity. In enumerating my objections to this bill, I shall confine myself to its essential features, or to such of its provisions as its friends will admit must remain in the bill, if it passes.

The Army consists of an order of men who betake themselves to the military profession. It is governed by the martial law, which confers exclusive privileges and extraordinary liabilities. On this account, the law martial has at all times been disrelished by ourselves and our ancestors as an intrenchment upon that just equality of rights which ought to prevail in a free country. It is therefore but seldom resorted to, and only when necessity demands its use. But the system of bankruptcy now proposed—without any pretext of necessity—is infinitely more frightful and disgusting than the law martial. The soldier is the object of the martial law, and the merchant is the object of the bankrupt system. But the law martial confines itself to the camp and to the Army, whereas the bankrupt system not only operates on the merchant, but, by authorized and irregular incursion, assaults the social and civil rights of the farmer, the mechanic, and the laborer. Any of these, by the fifteenth, seventeenth, or twenty-fourth sections of the bill, may be compelled to appear before the merchant tribunal of this system, to swear, not only as witnesses, but in relation to matters involving their own interests; to answer questions which may lead to their own conviction and punishment as criminals; are liable to imprisonment for an indefinite period, at the will of this tribunal. They are moreover liable to be punished as criminals, if convicted of concealing a bankrupt, and are subjected to penalties for demanding a debt due to themselves, if that debt be adjudged unjust or fraudulent. When a commission of bankruptcy issues, the commissioners must be merchants, under the usual pretence that they are best acquainted with mercantile transactions, and the assignees will be merchants. These commissioners have judicial powers, and constitute a court; and although a jury may sometimes be called to decide disputed facts, it will be a jury of merchants, as has uniformly been the case in England. The yeoman, on discovering that his merchant debtor is in doubtful circumstances, applies for relief to the common-law court of his State, to which he has been accustomed to look for redress. His application is rejected, and he is referred to the merchant tribunal of commissioners, who he is informed will settle all claims

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against the debtor, who is then deprived of the authority to pay his own debt. On applying to the commissioners, he is required to take the great oath that he is himself an honest man, or that his debt is just and not fraudulent; and now, when he expects to receive his money, the commissioners refuse even to look at his account, until he submits to the condition that he will suffer himself to be criminally punished if his demand shall be adjudged an unjust one. On humbly submitting to this condition, he is told that he may lay in his claim, and prosecute his suit before the court of commissioners. He gets five shillings in the pound. But at another time, discovering that his debtor has ability to pay the debt, he again seeks justice; but is now met with an answer similar to the ancient plea of the benefit of clergy. His debt is extinguished without payment, and without his knowledge or consent, because his debtor was a *merchant*. In one respect, this privilege or certificate of bankruptcy is more vexatious than the ancient plea of the benefit of clergy. When this latter plea was alleged, a certain method of deciding its verity was always at hand. The person who claimed the benefit received the book; if he could read, he was a clerk, and therefore discharged; if he could not, he was a layman, and therefore tried and punished. But whether a man was such a trader as was subject to the commission, and entitled to the certificate, has been hitherto a question of unceasing difficulty. The friends of this bill admit, and indeed contend, that it is all-essential to confine its liabilities to merchants only. The description liable to a commission of bankruptcy is as certain as the like descriptions in the English system, which is as perfect as the nature of the subject will admit. Yet the yeoman and artificer will frequently be harassed by attempts to subject them to the law. The grazier, as such, is declared by the bill not to be liable; but if he trades, although not liable as a grazier, he is as a trader, and all men trade some. The statute of the twenty-first year of James I, provided that "every person who uses the trade of merchandise" should be liable to a commission. Sir John Walstenholme threw in a few guineas to contribute to the cargo of a ship fitting out on a voyage to the West Indies, and in consequence of the failure of some of the merchants concerned in the vessel or cargo, a commission of bankruptcy was taken out against Sir John, and the Court of King's Bench decided that he was liable to the commission; and in consequence of this, the Parliament, in the fourteenth year of Charles II, passed an act to abolish the commission against him. By several acts of Parliaments, in the reigns of William III, Anne, and George I, the stockholders of the Bank, of the East India Company, the South Sea Company, the London Assurance Company, and of the Royal Exchange Company, were exempted from liability to commissions of bankruptcy. I think the honorable member will admit, that he can find no terms of distinction more explicit than the statute of 21 James I, which I have quoted; for the ambiguous nature of the subject-matter

affords nothing more certain. Yet the abuse to which the bankrupt system necessarily tends, made it necessary to pass the several acts of Parliament, to rescue individuals from injustice. The Parliament of Great Britain can pass *ex post facto* or retrospective laws of favoritism, or bills of attainder; but has Congress the power or disposition to walk in that course of legislation? Either Congress, after it enacts this system, must annually interfere, by retrospective laws concerning individuals, or our country under the system must suffer hardships, which by the experience of England have proved intolerable.

The Parliament has powers which enable it to regulate all other objects of legislation into a consistency or conformity with the bankrupt system; but Congress, having no legislative authority over a variety of other analogous objects, will find it difficult, if not impracticable, to suit the system to each State of the Confederacy. One instance of this inconvenience will suffice, as it will suggest to any one how they may be multiplied without end. A servant embezzles his master's money, absconds, and becomes a bankrupt. A commission issues; his master might have recovered it by an action of assumpsit; he may therefore prove it as a debt under the commission; he must therefore do so. This money being all the servant is possessed of, is divided among all the creditors in proportion to their demands, and the master may not be able to receive more than a tenth or fifteenth part of his own money. Parliament, in such cases, possessing not only the legislative powers of Congress, but of the States also, with a disposition to render everything subservient to the bankrupt system, would pass a law, making the offence of the servant in embezzling the money felony; on the conviction of which a writ of restitution issues to restore his money, and this, being in a suit at the prosecution of the king, would take place of any commission of bankruptcy. Congress could make no law or regulation to govern such a case, other than by some general rule in a bankrupt law; but this rule being to operate upon the same subjects in different States, and the object of the rule being differently modified by the laws of each State, your act would have a very different operation in one State to what it might have in another.

The temptations to fraud which this bankrupt system holds out, require for their counteraction penal laws and punishments too sanguinary for imitation in America. The system offers the merchant a full receipt against all his debts, whenever he chooses to abandon his affairs and accept such receipt; and any money or property that he has the art to conceal, or clandestinely invest in the funds or name of his confidential friends, will be a gain to himself. The temptation, therefore, to commit fraud is stronger than at common law, or under the good old statutes of Elizabeth for the suppression of frauds, or the ordinary insolvent laws, which give no acquittance for debts unless they be paid; in consequence of which, property concealed during the

stormy contest with creditors, is, when brought to the light, subjected to their claims. Accordingly, in England, the bankrupt system deals in punishments, the cruelty of which is unknown to the common law, or the ordinary statutes against frauds which operate among the agriculturists. The statute 21 James I., makes it necessary that the bankrupt should prove that his ability arose from casual loss; and, on his failure to do so, he is to be set on the pillory, and have one ear nailed to the same, and cut off. The statute 5 George II enacts, that any bankrupt who shall fail to surrender himself to this tribunal of merchants within forty-two days after their proclamation or notice, shall be put to death; if he refuses, after surrender, to submit to be examined, he shall be put to death; if he fails to conform, from time to time, to the law and the commands of the commissioners, he is punishable with death; if he does not fully disclose all his estate, he forfeits his life, and incurs the same punishment for not delivering up the estate; if he does not truly disclose a variety of conveyances or transactions which occurred before his bankruptcy, he is to be put to death; and if it shall be decided that he has concealed, or in anywise embezzled, effects to the value of £20, his life is forfeited. Let not the friends of this bill derive any assistance from the circumstance of the bill contemplating milder punishments than the British statutes do. Be assured that, if the system is now adopted, all the bloody penalties of the English code must be adopted with it; if not now, yet shortly after the operation of the system shall prove their necessity. The cruel punishments of the British system were not resorted to, until experience commanded their adoption; for, although the bankrupt system began its operation in the time of Henry VIII, it was not until the reign of George II, the bloody list of penalties I have recited was enacted. If we are not to introduce this machine of bankruptcy gradually, and by piecemeal, as was done in England; if gentlemen are determined to have the benefit of European experience, and take the voluminous and complicated system as it prevails in England, why not give the same credit to the experience of that country with regard to the necessity of capital punishments to repress the multiplied frauds to which the system gives birth? Have not the merchants of our country manifested the same activity, and ingenuity, and avidity of gain, with the English merchants? And when we introduce the English model, holding out precisely the same inducements to fraud, will it not have the same effect upon the nerves of our traders, and require the same medicine as has been required in that country? Think you, sir, that the English code of death has been only a dead letter? Richard Town was executed on the gibbet in 1717 for concealing his effects. Alexander Thompson was put to death in 1756, for failing to surrender within forty-two days after the proclamation of the commissioners. The newspapers give us an account of a late execution under the statute of George II. At an early period we

find Lord Hardwick wincing under an application for an order to require the commissioner's clerk to attend the Old Bailey with his papers, to aid in a prosecution of death under the bankrupt system, and the numerous applications to Lord Macclesfield to suspend commissions of bankruptcy, and thereby arrest their bloody prosecutions, were so perplexing, and consumed so much time, that it became necessary to adopt general rules of practice, that it might be known when he would supersede commissions, or permit death to claim its prey.

The 25th section of this bill, which has been so properly noticed by my honorable colleague, (Mr. TYLER,) imposes a burden upon the wife, which places her in a state of warfare with her duty and affection; yet, in the opinion of the friends of this bankrupt system, she ought to be placed in that condition; and I acknowledge that if the system must be adopted, its temptations are such as to make an inroad against the sanctity of the connubial relations necessary. I will, however, beg the attention of the Committee to the situation in which the wife is placed by this mercantile code. On the marriage of a female, her property is placed at the disposition of her husband, and the common law puts it out of her control. If the husband makes any disposition of his property to the use of his wife, such disposition would be void, if made to the prejudice of his creditors; but if he received a portion with his wife, and makes a settlement on her, (even a voluntary settlement,) not disproportioned to the advancements he received with her, the presumption is that such settlement is bona fide; but the bankrupt system comes and sweeps away everything which the wife may have derived from her ancestors, and annihilates every transaction of her husband for her benefit, however the same may be founded in justice. But this is not the fullness of her calamity, as inflicted by the dictates of this bill. The family mansion is violated by brute force; for the good old common law maxim, that every man's house is his castle, is repealed by this bill, and the breaking of doors is its common-place dialect. She is seized by the common constable, or by some messenger, to whom she is a stranger, and dragged before the merchant court martial. She is there informed that she must be examined as a witness touching the affairs of her husband, not for him, but against him, and against herself; that she must not only answer concerning his civil concerns and matters of mere property, but must, under oath, disclose his secrets, as they were imparted to her in connubial confidence, and that she must, as a witness, depose to facts which may lead to her husband's conviction of crimes, and his punishment, by ten years' imprisonment.

The commissioners of bankruptcy, at this stage of cruelty, as if anticipating the revolt of natural feelings against the injustice of this requisition, point the unhappy victim to a dungeon, yawning for her reception, and inform her that she can only escape the peril of her situation by a compliance with their commands, in becoming



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the prosecutrix of her husband. Indeed, sir, by these means you may triumph over the mercies of your victim. She consents (if consent it be called) to take the oath, but she thereby incurs no obligation to tell the truth to these commissioners. An oath, as a witness, is a *promise*, in the presence of God, to declare the truth touching the matter in question. A promise, by the law of nature, only derives its obligation from the free will and consent of the promiser. If the promise be extorted by force, it imposes no obligation, because the free will of the promiser is wanting. Such a promise, in a state of society, imposes no obligation in conscience, unless the tribunal who enforces the oath has a just right to do so. But no human tribunal can require a *feme covert* to take an oath to violate that matrimonial confidence or connubial relationship which sacredly subsists between her husband and herself, because she has previously vowed, before the altar of the Almighty, to an alliance to her husband, which your oath of bankruptcy would force her to violate. An oath to a robber or ruffian is not to be performed; and I believe the casuist will agree with me, that an oath, tendered by a legal tribunal, under a positive law, can impose no obligation repugnant to a duty enforced by the moral law or laws of nature. This bill seems to consider the merchant's wife as its natural enemy, and it wars against her by a departure from justice and magnanimity; for the bill leaves in force, and adheres to, the common law rule, that her property belongs to her husband, and is liable to his debts; but it repeals the common law principles, which operate in her favor, and would protect her person from molestation, on account of the derangement of the affairs of her husband.

This bill having violated the sanctity of the relationship between husband and wife, humbled her, and stifled domestic comforts, proceeds to prostitute the decorum of our judiciary tribunals. I do not mean the strange tribunals erected by this system, but the ordinary courts of justice, which are the property of all the people and of the country. By the 49th section, special pleadings—an institution established by the wisdom of ages—the usual mode of insuring justice—the only method of sifting the verity of litigants, and the common avenue through which suitors march in seeking the redress of wrongs—is abrogated in favor of these merchant commissioners, merchant assignees, and merchant bankrupts, whereby the very structure of our courts of justice is unhinged, to extend to these traders an advantage (if an advantage it be) which the rest of our citizens are not entitled to; yet, I am constrained to acknowledge that, if we must adopt the bankrupt system, the provision to exempt the merchants from the necessary forms of proceeding imposed on other citizens should also be adopted, as an essential feature of that polity; for when your bankrupt commissioners shall outrage public feeling, by the disturbance of the tranquility of a neighborhood, when they compel not only the trader, but the yeoman and me-

chanic, to become self-accusers of ignominious crimes, when they shall have stormed the domestic dwelling of the matron, arrested her person by forcing doors and breaking windows, and consigned the innocent wife to a dungeon, for refusing to rise up as the accuser of her husband—when these events, I say, shall have transpired, and when the sufferers shall have carried their complaints to the ordinary courts of justice and demanded redress, it would not do, it would never answer the views of this bankrupt system, that your bankrupt agents should be compelled to appear and regularly plead their defence and go to trial as other citizens are forced to do. No, sir, the defence of the merchants could not abide so open and caudid an investigation; the juries might be composed of *men*, and, although you at the trial place the bankrupt system before them on one side, justice would stare them out of countenance on the other. It is therefore necessary, if you take this system, to dispense with the forms of justice whenever the commissioner becomes endangered before your courts; or, in other words, to give him some advantage or surprise over his opponents; to throw some fictitious weight into the scale to counterbalance the heavy consideration of natural justice with which he has commenced hostilities.

The bankrupt system began to introduce itself into England, at a period of history by no means favorable to equal rights or public liberty; at a period when the various different orders of men were struggling for exclusive privileges, and each combination sought to aggrandize itself at the expense of the community. The clergy aspired to a peculiar and exalted station, and claimed to be exempt from the municipal laws of the country which governed the laity—the civilians sought to place themselves and their controversies out of the pale of the common law—the artificers complained that the general laws which governed agriculturists were unfitted to their taste, and demanded the privilege of governing themselves by means of guilds and corporations, which might secure and amplify such of their rights as they were unwilling to hold in common with their fellow-subjects—the Crown claimed and exercised the power of issuing patents, granting exclusive rights and whole branches of trade to particular subjects and orders of men, and frequently, by exercising the power of dispensing with laws, distinguished favorite classes, by exempting them from the observance of laws by which the nation was governed.

At this epoch of time, when the authority of the Barons was on a rapid decline, and before the yeomanry had acquired that stable influence, by which they were afterwards distinguished; at this time, I say, the merchants claimed and obtained the first introduction of a system of laws by which they were to be governed, and from which other men were to be excluded. After the introduction of this system into England, it probably would not have obtained its present gigantic size, or indeed long retained its exist-

ence, but for a concurrence of circumstances, which I hope will not take place in our country. At an early stage of its ravages in that country, we find Lord Coke exclaiming, "we have feigned the name, as well as the wickedness of bankrupts, from foreign nations." I cannot persuade myself that the bankrupt system in England would have survived the enlightened views which led to the Revolution and adoption of the bill of rights, but for the condition of the Government, the introduction of the funding system, and the absolute dependence of the Government upon the advances which it continually derived from mercantile loans—these causes certainly retarded the progress of that country to liberty, for, after the abolition of the prerogative power to grant exclusive privileges, and dispense with laws, the Parliament itself, frequently influenced by Ministers, depending upon annual loans, usurped the very power which had been so odious to the people, and, for the purpose of raising revenue or facilitating loans and public credit, put nearly every channel of foreign and home trade into the hands of particular orders of men or incorporated companies.

The bankrupt system has a cruelty peculiar to itself, in this, it creates and holds forth a temptation too strong to be resisted, and cruelly punishes the weakness which yields to that temptation. Review all the offences so heavily punished by this bill; then, suppose for a moment, that the bankrupt system has no existence, and you immediately discover that, without this system, the offences are impossible, and cannot occur, from whence it is evident that the bill manufactures not only the punishment, but the offence and every inducement which can produce the offence. The common law and the statutes of Elizabeth against frauds, which apply to all the people, do not exhibit the bloody punishments which we find in the English bankrupt system, which applies exclusively to merchants, and the reason is evident; neither the common law or acts of fraud make any attempt to bribe the wickedness of their victims, by the offer of a full receipt against just debts, as the acts of bankruptcy do. The pretexts on which the bankrupt system was brought into England, and from time to time modified, have been as various as can well be imagined. It has sometimes been pretended that this exclusive code of law for merchants, would contribute to enrich the country by encouraging adventures; by this view, the merchant who was to receive all the profits of the adventure, if it proved fortunate, was relieved from the loss, if it proved fatally unfortunate, and this loss was thrown on his creditors, as well farmers as merchants, and by an unequal and adventitious burden, for he might fail, owing one man one thousand pounds, another one hundred pounds, and another but ten pounds. It is true, as the gentleman from Pennsylvania has remarked, that the merchant frequently embarks his all on the winds and waves. But by making the other members of society, who receive no share of his profits, his insurers, you convert the

business of the merchant (which still involves uncertainty) into a lottery with all prizes and no blanks, for, if successful, he takes all the profits, and if unsuccessful, you discharge him from the loss, by relieving him from his debts. This would probably encourage trade; but I see no reason for bribing the yeoman and mechanic to invest their capitals in this lottery.

The most early laws of bankruptcy of the reign of Elizabeth confined themselves to English merchants, under the pretext of encouraging them in preference to alien merchants—but the English merchant afterwards discovered that frauds might be committed on the revenues of foreign countries, and advantages acquired in certain branches of their trade, by carrying on his business, fictitiously, in the names of aliens from those foreign countries who reside in England; and he observed the advantage of having the capital so employed, or the nominal owners of it within the benefits of the bankrupt system, and the bankrupt acts were consequently extended to alien merchants. Hence the benefit of the extension of the system to aliens, if a benefit it can be called, was produced in consequence of the frauds of the English merchants, and to facilitate their fraudulent practices.

I have as great respect as any gentleman here, for the character of the honorable merchant—I have a sincere respect for him in his station as a merchant, and, if he aspires to a seat here, I truly respect him on this floor. But when he comes here, I expect him to leave his speculations of profit and loss in his counting room, and would as soon see him produce a pack of cards in this hall, as seeking to imprint the character of those speculations upon the complexion of this Government. The merchants of this country have not the same pretext with the merchants of Europe, for demanding separate privileges, or an exemption from the code which is to govern the whole country. The trading men of Europe find themselves surrounded by privileged orders of men, and fraternities exercising peculiar rights, and something like self-defence may suggest to them the claim of similar rights on their part. A merchant of Europe, wishing to embark his capital in trade, finds all the most profitable branches of trade occupied by companies or corporations, who, by royal favors are entitled to exclude others. He is permitted to engage in the business only by buying the freedom of some corporation, or buying an admission fine or mulct; he, therefore, may naturally look for some peculiar favor or privilege in return for his money; but in this country he is exempt from the vexation of corporations or Government companies, and finds no privileged orders of men to contend with him, or set the example of such ambitious pretensions.

The present attempt, I fear, authorizes a suspicion that the merchant here desires to become the same veteran of intrigue that he has been in England. We have left the nobility and priesthood in Europe, and we place the merchant here in a condition that he can have no pretext of

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ambition; yet we find him demanding a code of laws in which the mountaineers are not to participate; and we are even told by the honorable member from Pennsylvania, that the merchants have for some time been governed by a voluntary code of their own. When we see our merchant girding on the armor, or calling for the shield, which are only excusable in the contests with the privileged orders of Europe, it is time to guard ourselves with suspicions of his design. Having no combinations of privileged men here to struggle against him with similar strength, he may turn his warfare against a population with the same cruel inequality which existed between the Spartans and their unarmed helots. But if you are determined to confer this privileged code on the merchants, and hence create an order of men with exclusive privileges, then I pray you to organize one or two other distinct orders of men, with similar exclusive privileges, who may be able to contend with the merchant, and whose mutual jealousies, and watchings, and balanced strength, may afford some security to the inhabitants of the country.

In the reign of Elizabeth, an act of Parliament provided, that no person should follow any trade, or set any other to work at such trade, without having served a seven years' apprenticeship. It further provided, that if any laboring person, under twenty-one years of age, should be required by any householder, having and using half an acre of plough-land, at least, in tillage, to be an apprentice and to serve in husbandry, he should do so, or on refusal, and complaint to a justice of the peace, be committed to a prison until he should be contented to serve. Further, the justices of the peace of every shire, riding, or liberty, were directed yearly, at every general session, to be holden or kept next after Easter, to limit and rate the wages of all laborers.

Here we see that the yeoman and master mechanic had an equivalent for the exclusive privileges granted to the merchant in the same reign, for the act I have mentioned gives equally important benefits to them. The merchant was aggrandized at the expense of the community, of whom the farmer and mechanic were part, and they in their turn were aggrandized at the expense of the same community, whereof he was a part. But all was at the expense of the poor and laboring class of the community. The homely old adage of *honor among thieves*, was adhered to between them, for although the yeoman, master mechanic, and merchant, by combination, plundered the rights of the poor and laboring population, as among themselves they made a fair and equal division of the spoils. But if you grant exclusive privileges to the merchant, what equivalent have you for our farmers and mechanics? If you could prevail on yourself to give them something like the benefits of the last acts of Parliament I have mentioned; yet your power to do so fails, for you have no right to legislate with regard to the farmer and his laborers, or the mechanic and his journeymen or apprentices, nor can you attempt it without infringing the State

sovereignties. When I claim in behalf of the agriculturist the equivalent, the *quid pro quo*, for the many peculiar privileges you are about to grant by this mammoth code to the merchants, you are forced to shelter yourself under the plea of insolvency.

The gentleman from Pennsylvania has forcibly urged upon our consideration the propriety and convenience of uniformity throughout the United States on the subject of bankrupt laws. This view of the subject is plausible, as will any view of any subject be, when supported by the superior talents and learning of that gentleman, nor would, nor could I, upon this or any other occasion, be thought to question the purity of his motives. But, really, sir, this passion for uniformity over the continent, from Maine to the Mexican Gulf, which is coming so much in vogue, may be pregnant with untold evils. It will be extremely difficult, if possible, for this Government by uniform internal regulations to give a system of laws suitable and satisfactory to so many States, containing a population accustomed in a great measure to dissimilar laws. The domestic peace and tranquillity of each State (an object certainly more desirable than schemes of sublimity and uniformity which appear so well on paper) can better be obtained and secured by the State Legislatures, who are more intimately acquainted with the will and wants of their constituents than we can be. Gentlemen seem to take as granted, that uniformity of the laws of the several States is an object of immense importance; but this has not been proved, nor can it be admitted. Those engaged in particular branches of trade should, and I believe usually do, inform themselves of those regulations of the parts or places to which they trade, which particularly concern their branches of business. The famous Hanseatic League, that was exalted by its trade to a condition so prosperous, as to excite the jealousy and fears of Europe, consisted of cities, each of which had an internal police peculiar to itself, and the same may be said at this time of the ports of the Netherlands, of the commercial towns at or near the mouths of the great rivers north of Holland, and of the trading places on the Baltic; yet we hear of no injury to the prosperity of these countries, which could be attributable to this circumstance.

The bill now before us, in its present shape, requires a merchant to be indebted, at least, in the sum of \$1,000, to be within its purview, but whether the amount of debt shall be limited, or, if limited, to what sum, would be a matter of detail subject to our discretion. If you do not limit the debt, or limit it to a small sum, the consequence will be, that men who have been trusted with small sums, not on the credit of their visible property, but from a confidence in their industry, frugality, and future acquisitions, will bar the recovery of these small debts by the provisions of your law, merely because they do not possess funds of payment, although they retain that source of credit on which the debts may have been contracted—I mean their capacity for industry and acquisition of funds. But, if, on the other hand,

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you require debts of considerable magnitude to bring the trader within the law, will it not be said (and with too much plausibility) that you legislate for the wealthy, and enact the stupendous code exclusively for their benefit? This mammoth system, if adopted, literally creates and protects a privileged order of men in our country, and this privileged order, the mercantile class, assumes the same attitude in relation to the farmer, the mechanic, and the country inhabitants, that the company of British merchants do in relation to the unhappy and oppressed natives of the East Indies; and although the privileged class will not immediately exercise all the power of the East India Company, it will have an improper and unjust advantage over the industry and wealth of the country. This bill is objectionable in all its parts, in every shape, and under any modification it can assume; its evils, which are numerous, will pervade the whole country, not only the trading towns, but the interior, will, in truth, scale the mountains, and intrude themselves into every village, which becomes the residence or retreat of any man possessing property, or having the address to become indebted. I shall, therefore, with pleasure give my vote in support of the motion of my honorable colleague to strike out the first section, with a view to destroy the bill itself.

The Committee rose, reported progress, and obtained leave to sit again.

WEDNESDAY, February 18.

Mr. ROBERTSON, from the Committee on Public Lands, to whom was referred the bill from the Senate, entitled "An act supplementary to the act entitled 'An act further extending the time for issuing and locating military land warrants, and for other purposes,' and the bill from the Senate, entitled 'An act to authorize certain purchasers of public land to withdraw their entries, and transfer the moneys paid thereon,'" reported the said bills without amendment; and they were ordered to be severally read a third time to-morrow.

Mr. ROBERTSON, from the same committee, to whom was also referred the resolution from the Senate, "relative to the distribution of the late edition of the land laws," reported the same without amendment, and it was read a third time and passed.

Mr. HERRICK, from the Committee on Private Land Claims, reported a bill for the relief of Daniel Burnett, Gibson Clark, and the legal representatives of Hubert Rowel, which was read twice, and committed to the Committee of the Whole, to which is committed the bill confirming the claim of Tobias Rheams to a tract of land granted by the Spanish Government.

Mr. HERRICK, from the same committee, also reported a bill for the relief of Narcissus Broutin and others; which was read twice, and committed to a Committee of the Whole last mentioned.

Mr. H. NELSON, from the Committee on the Judiciary, reported a bill for the more convenient

organization of the courts of the United States, and for the appointment of circuit judges. [Providing that the judges of the Supreme Court shall, from and after April next, cease to perform the duties of circuit judges; that the Supreme Court shall consist permanently of one chief justice and four associate justices, whenever vacancies shall reduce it to that number; that this court shall be holden in May and December, annually; that there be appointed eight circuit judges, to hold circuit courts twice a year in the several districts, in conjunction with the district judges, &c.] The bill was twice read, and committed.

The SPEAKER laid before the House a letter from Richard Bland Lee, Commissioner of Claims, transmitting reports of the facts in the cases of Whitmore Knaggs, of the Territory of Michigan; of Tobias E. Stansbury and William Stansbury, and of Hickman Johnson, guardian of Juliet Eliza Sellers, of the State of Maryland, with the evidence accompanying each; which was referred to the Committee of Claims.

An engrossed bill, entitled "An act to fix the compensation of the Secretary of the Senate and Clerk of the House of Representatives, and the clerks employed in their offices," was read the third time, and passed.

On motion of Mr. HUBBARD, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of increasing the pension of Lieutenant Aaron Stafford, of the New York militia, late an Adjutant in the service of the United States.

On motion of Mr. SLOCUMB, the Secretary of War was requested to lay before this House information whether any of the paymasters of the armies of the United States, during the late war, have failed to perform their duty in making their returns and settlements, and the names of such delinquents, and the reason why coercive measures have not been used to compel a performance of duty.

On motion of Mr. DRAKE, the Clerk of this House was directed to furnish each of the members of Congress with a printed copy of the reports of the Committee of Commerce and Manufactures, made 13th of February and 6th of March, 1816.

On motion of Mr. EDWARDS, the Committee on the Public Lands were instructed to inquire into the expediency of adding to the land district established at St. Stephens, in the Alabama Territory, the lands lately acquired from the Chickasaw and Choctaw Indians, and adjacent to said district.

#### BANKRUPT BILL.

The House then again resolved itself into a Committee of the Whole on the bill to establish a uniform system of bankruptcy.

Mr. SERGEANT, of Pennsylvania, remarked, that, from the course which had been taken by the opponents of the bill, its provisions seemed to be understood as having no object but the relief of debtors, and those of a particular class. One

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gentleman, indeed, appeared to have a glimpse of a more extended operation, for his objection was that the bill imposed extraordinary liabilities, and conferred peculiar privileges, upon the mercantile part of the community; but it did not seem to have occurred to him that the imposition of extraordinary liabilities might of itself be an adequate inducement for granting some peculiar privileges. The truth is, that the bill now under consideration, and every well conceived bankrupt law, proposes, chiefly, the security and advantage of the creditor. The ultimate relief afforded to the debtor is only an incident, though an incident, undoubtedly, of great importance, whether it is regarded in its connexion with the public interests, with the demands of justice or the duties of humanity. The question which presents itself to the consideration of an enlightened Legislature is simply this: if, from motives of public policy, you deem it necessary to exercise over a certain description of citizens the summary power of arresting them in their career, upon indications appearing of weakness and probable approaching failure; of taking their property out of their hands, and distributing it among their creditors, for the satisfaction of their debts, what terms ought you to grant to those over whom you have exercised this authority? An interesting question it must at all times be, and at the present time it has a peculiar interest from circumstances which I shall perhaps have occasion to advert to hereafter.

My purpose, in the first place, is to state very briefly why the bill is and ought to be confined in its operation to the persons described in the first section, that is, to those engaged in trade. And in this I have in view to meet an objection that I find has had a considerable influence upon the minds of members. Why, it is said, why not extend the provisions to all classes of the community? Why confine them to a single class? The answer is a very plain one. The design of the Constitution was to vest in the Government of the United States such powers as were necessary for national purposes, and to leave to the States all other powers. Trade, commercial credit, and public or national credit, which is intimately allied to it, were deemed, and rightly deemed, to be national concerns of the highest importance. In the adjustment of our Government, at once national and federal, they were intended to be confided, and were confided to the care of the public authority of the nation. It is too much the fashion everywhere to indulge in general censure of classes or professions. When merchants are the subject of discussion, we hear of speculators, and even worse; when protection is asked for manufactures, we are told that manufacturers are extortioners, and there is often danger that the great interests which are connected with their occupations may be lost sight of in the prejudice raised against the individuals engaged in them. But, whatever may be said of the merchants, it is nevertheless certain that trade, trade carried on by merchants, and commercial credit, are favorable objects of the Con-

stitution. It is in fact to a regard for trade, to the obvious necessity of a system that should be adequate to its protection, to its regulation and support, that we are indebted for the Constitution itself, and all the blessings we enjoy or promise ourselves from that instrument. The commissioners who met at Annapolis in September, 1786, delegated by the States of New York, New Jersey, Pennsylvania, Delaware, and Virginia, assembled in consequence of a resolution of the State of Virginia, "to take into consideration the trade of the United States; to examine the relative situation and trade of the said States," &c. Their report, grounded upon the suggestion "that the power of regulating trade is of such comprehensive extent, and will enter so far into the general system of the Federal Government, that to give it efficacy, and to obviate questions and doubts concerning its precise nature and limits, may require a correspondent adjustment of other parts of the federal system," recommended the plan of a convention, with enlarged powers, to prepare such a system. The recommendation was adopted. The convention that formed the Constitution was assembled. This Constitution was the result, and "commerce with foreign nations and among the several States" was one of its chief concerns.

The power to "regulate commerce with foreign nations and among the several States," would have been inadequate to its purpose without the concession to Congress of certain auxiliary powers. They were granted. Among them, and I advert to it as having the nearest affinity to the power now more immediately under consideration, was the authority to establish a national judiciary, with jurisdiction over controversies between foreigners and citizens, and over those between citizens of different States. What was the view of the convention in giving to the foreigner, and to the citizens of other States in relation to the debtor, a forum such as this? To secure to him, as far as practicable, a fair and impartial administration of justice, to place him above the reach of local feeling and local prejudice, beyond the sphere of those influences that may, by possibility, affect the State tribunals, in contests between their citizens and others. This was the immediate, but what was the ultimate object? To protect and encourage trade, to support and invigorate commercial credit, by the security offered.

The power "to establish uniform laws on the subject of bankruptcies" is of the same character. For the construction of this power, I do not think it necessary to resort to verbal criticism. It does not appear to me that we need inquire whether the term "bankruptcy" had a definite meaning, to which we are limited, nor whether we are bound to follow the model of the statutes in England, or any State bankrupt laws that may have existed here before the Constitution was framed. For the present purpose, the general spirit and scope of the Constitution furnish a sufficient guide. The design of that instrument was to occupy national ground, and leave the

rest to the States. Who are the persons, then, that, in the relation of debtor, stand connected with foreigners and with the citizens of other States? Who are the persons that in the same relation stand connected with domestic and foreign trade, and with the commercial and public credit of the country? The answer will be at once, they are the merchants, the traders, the dealers, by whatever name you may be pleased to call them, whose business it is to buy, and sell, and circulate what is produced at home or imported from abroad. Other persons may contract the same relation, but it is occasionally and by accident only. These (merchants or traders I mean) do so habitually, constantly, and in the regular course of their business. Again, in what other class of citizens has the nation the same sort of interest? I wish not to be misunderstood. The nation has an interest in the prosperity of all her citizens, and of every branch of industry. Agriculture, the essential basis of national strength and wealth, deserves to be cherished and supported. For manufactures, every day becoming more and more interesting to this country, I trust that much will be done to afford protection and support. I declare myself willing to go as far in measures to support and protect them, as may be necessary—a declaration which I am willing should be understood either literally or liberally, to give it the most positive meaning. But let it be considered for a moment what is the sort of interest the nation has in the trading part of the community, and it will immediately be seen how important is the power to control them. Take the whole amount of your imports, add to it the whole amount of your exports, and (if any one can estimate the value of it) of your internal trade for consumption. The great aggregate circulates by means of the trader, and is in his hands. When the farmer or the planter carries his crop to market, he does not become the shipper, and enter into the mystery of invoices, and bills of lading, and policies of insurance; he sells it to the merchant. By the hands of the merchant, too, the Government receives its revenue. With such a mass of public and national interest concentrated in the concerns of this class of society; with such a power, in the nature of their occupations, to influence trade, and credit, and revenue, I am satisfied that the controlling power of Congress was intended to reach them.

We are on national ground, then, intended by the Constitution to be occupied in making a bankrupt law for merchants and traders, and others immediately connected with trade. Can we go further? Without undertaking to say we cannot, under any circumstances, I am free to confess that I see no necessity for it, and there are objections of no inconsiderable magnitude. Beyond this limit, none occurs to me as assignable short of an entire comprehension of all descriptions of persons. To say nothing of the impolicy of exerting the summary and sweeping authority of a commission of bankruptcy over farmers, and manufacturers, and mechanics, it would be a plain

encroachment upon the rights of the States. Was it intended that Congress should regulate their internal concerns? This is left to the States themselves. Why then should we undertake unnecessarily to interfere? And we should interfere to a most enormous extent, if we should attempt, by any means, to regulate or to affect the relation of debtor and creditor within the States, upon the comprehensive plan suggested. The argument is, to my mind, decisive, and it brings us back to the ground originally taken, where we may safely stand, assured that we are within the limits of Constitutional duty—from which we cannot depart, without the risk of doing what is at once unnecessary and inexpedient, perhaps unconstitutional. The discrimination which is thus indicated by the spirit of the Constitution, and by the theory of our Government, is conformable also to the terms used by the Constitution. Bankrupt laws, as distinguished from insolvent laws, have a sufficiently appropriate signification, determined by experience and practice. Their most uniform feature, whatever other differences may have existed, has been that, in their principal operation, they were usually confined to the commercial class; to that class which is most extensively intrusted with the property of others, which is most engaged in hazardous adventure, and whose good or ill fortune, and, if you please, good or ill conduct, have the most extensive influences. I would not, however, be understood as meaning to give any positive limitation, in this respect, to the power. It is possible that circumstances may arise, that would render a more comprehensive description necessary; and then we should be called upon to say whether the Constitution permitted such a construction. At present this is not the case; the broad line is sufficiently marked between the national ground which the National Legislature ought to occupy, and those subjects of internal regulation which may be sufficiently provided for by the State Legislatures.

It is certainly true, that the merchant or trader may be, and commonly is, indebted to persons residing in the same State with himself; and it is equally true, that the bankrupt law will operate upon debts of this description, as well as upon debts due in other States, and beyond the limits of the United States. The objection, however, has very little weight. If this operation were an evil, it would be only an incidental one, such as, in a greater or less degree, belongs to every human system. The work of legislation must be at an end, if it can never go on without the perfect assurance that it will produce pure, unmixed good, that it will precisely accomplish its object, without producing any consequences in themselves to be deprecated. I will not stop to illustrate, for every man will find the illustrations lying in every direction about him. But it is not an evil; it is a part of the object of the bankrupt law and a part of the result contemplated by the Constitution in conferring the power. The Constitution looks to the mass of commercial dealing—to the character of commercial dealing—to the sum of the relations arising from it, and the sum of the



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effects produced by it upon trade—upon credit—upon the nation, and upon society. It regards, also, the entire mass of commercial dealing, not the individuals engaged, as the object of national concern. Is any other discrimination practicable? Suppose you should attempt to exclude creditors residing within the same State with the debtor, one most unjust consequence would immediately follow. You exclude these creditors from a participation in the bankrupt's estate; that is, you divide it among one set of creditors, to the exclusion of another, not less meritorious. Or, suppose you admit them to participate, but upon different terms of not being barred by a certificate this would be a discrimination in their favor, both unjust and impolitic, and tending directly to weaken and undermine the foundation of credit; it would be palpably repugnant not only to the policy, but to the very terms of the Constitution, which gives us authority to make uniform laws on the subject of bankruptcy.

Still less force is there in that objection which would confine the operation of the law to cases between merchant and merchant, excluding all creditors who are not traders. If the exclusion should be entire; that is to say, if you were to distribute the estate of the bankrupt only among creditors who are traders, giving no part to the farmer, the manufacturer, the mechanic, or others, it would be unjust. If you give them a portion of the estate, without affecting them by the certificate, it is unjust as well as impolitic, for the reason I have before stated. In either case, (and this remark applies to both the objections,) you lose sight of and defeat the very object of the power, which owes its existence in part to the extent and nature of the relations between the merchant and others.

The question which remains for the consideration of the House, is, shall this power now be exercised? I do not mean to contend that, because we find it in the Constitution, therefore we are bound to keep it always in exercise. My honorable friend and colleague, (Mr. HOPKINSON,) did not say so, and he has been misunderstood by those who have endeavored to illustrate the extravagance of the position by reference to the power of making war. It is a power to be exercised by Congress in their discretion, with this guide, however, to direct them, that the framers of the Constitution thought it a power fit and proper to be exercised by Congress, and not to be left to the States; they, therefore, supposed it not merely possible, (for a mere possibility would not have afforded a sufficient motive for its insertion,) but highly probable that a state of things would exist, rendering an uniform bankrupt system not only convenient, but absolutely necessary. Whatever arguments, therefore, are urged against such a system, simply as such, (and most of the arguments we have heard are of that description,) intended and tending to show that it is at all times, and under all circumstances, an evil; every argument, too, that is grounded upon the supposed adequacy of State legislation to accomplish the design of the Constitution, is

an argument that might, with propriety, have been addressed to those who framed, and to the States when deliberating upon the adoption of that instrument; it is, in truth, an argument against the Constitution itself, and ought to be applied, not to prevent the passage of a law, but to produce an amendment.

Can a state of things ever be supposed to exist, more imperiously calling upon Congress for their interposition, with a view to the results which the power is to be considered as having been intended to produce? This question will be more satisfactorily answered by considering, in the first place, for a few moments, the general provisions of the bill, as they relate to the interests of the creditor.

The bill proposes in the first section that, upon the proof of certain facts, indicating, unequivocally, that a merchant's or trader's concerns are in a state of irretrievable embarrassment and disorder, and that he is rapidly approaching to a state of insolvency, or already arrived at it, a creditor may cause a commission of bankruptcy to be issued against him. The effect of the proceeding is to take out of his hands all the property he may have in his possession, or may be entitled to, and place it in the custody of persons appointed by the law, for the purpose of equal distribution among all his creditors, without distinction, in proportion to the amount of their respective debts. Nothing can be fairer or more reasonable than this. The details of the bill, so far as they concern the creditors, are all directed to the object I have stated, to accomplish the honest surrender of property by the debtor, and the equal distribution among his creditors. Is not something of this kind required? Those members who represent commercial districts, are prepared to answer the question from experience; and those who have not had the same means of information, may, notwithstanding, arrive at the conviction of the necessity by the simple process of reason.

The State insolvent laws (with, I believe, but one exception) proceed only upon the application of the debtor. They do not operate till he himself thinks proper to petition, and then they give him relief in such manner as they deem most advisable. Some, by general laws, commit the authority to judicial tribunals; some exercise it themselves, by direct legislation upon existing cases; some have permanent regulations; others pass occasional laws; some few grant the most extended relief, discharging from the debt; the greater part, only the limited relief of immunity from imprisonment. Their views, in all these cases, are directed, as in other matters, by State, and not by national policy, and so they ought to be. This policy is different in different States; but, in all, it is liable to be embarrassed by the very omission of Congress to provide for the case which, by the Constitution, is committed to their care, inasmuch as it throws upon the States, individually, the almost invincible difficulty of endeavoring to conciliate and consolidate interests and views that can scarcely be made to harmonize. New York, being high-

ly commercial, may be very much influenced by commercial feeling in her local legislation on this subject. Pennsylvania, not long ago, passed a special insolvent law for the city and county of Philadelphia. This was an effort to describe commercial cases by local limits, and may be plainly traced to the same fruitful source of embarrassment; an embarrassment that would no longer have an existence, if Congress would exercise their authority, and, by withdrawing from the State legislation the subject of commercial bankruptcy, leave the States free to pursue each its own appropriate policy upon the other cases of insolvency; cases that, from their nature, are essentially dependent upon each other and much less extensive considerations.

One great defect, however, of the State insolvent laws is the one I have mentioned. They wait until the insolvent asks for relief. In the mean time he is consuming, or wasting, or mismanaging the property, that ought to satisfy his debts; and, when he comes for relief, has nothing to surrender. The uncontrolled authority over his estate, too, occasions a resort to expedients which, in a general view, ought not to be permitted; expedients that have become almost consecrated by practice, but are not, on that account, the less exceptionable. The failing merchant is influenced in the distribution of his property, not by any general considerations of justice, but sometimes by feelings of regard for particular creditors, often by regard only for himself and his future hopes. He pays one, and leaves nothing to pay another; why? because one is a friend or neighbor, the other is not; one has lent him money, or endorsed his paper, the other has only sold him goods; one importunes him, the other has not the opportunity; making thus certain arbitrary distinctions, natural enough, but not defensible upon any just general principles. Sometimes, and not seldom, his distribution has reference only to himself. Is he most intimately connected with domestic creditors? He may secure their good will and future aid by giving them a preference to his foreign creditors. Is he most nearly connected with foreign creditors? He preserves their confidence, and lays a ground to hope for their future assistance, by giving the preference to them; and, among creditors of the same kind, he may adopt a similar distinction. The object of the bill is to prevent all such doings, and to bring back the distribution to the only fair rule, the rule of impartial equality. I do not pretend to pursue the mischiefs that exist in all their details—suffering a failing debtor to make his own assignees, permitting him to extort terms of composition from his creditors, and the like. I refer to these things, briefly, to show that circumstances call for the incorporation of a bankrupt law into the code of the United States for the protection of the creditor, and the preservation of commercial integrity and commercial credit.

It would be a sufficient answer to the argument which supposes that the States may do all that is necessary, to say, that the Constitution does not permit us to think so, or why did it give the

power to Congress? The States cannot make *uniform* laws on the subject, nor laws that will operate beyond their own territory, much less that will have any foreign operation. The States, in their local legislation, must be chiefly governed by local views; this is the theory of the Constitution; and, by the clause in question, they have, themselves, not only conceded the principle, but they have also conceded the fact, that the power in question is one of national, and not of local concern. How can this argument be urged with anything like even a plausible appearance, by those who, in another instance, endeavor to deduce the principle, not from the express words of the Constitution, but from the mere proof of the fact. You have upon your table a most important report upon the subject of internal improvement. Is there any express authority given to Congress by the Constitution to legislate on this subject? The answer is plain—there is not. Whence is the authority derived? From the fact, merely, that national improvements, by roads and inland navigation, may be necessary for the common defence and general welfare. And cannot this be done by the States? The answer again is, no. The States, individually, are not competent to the care of the national concerns. They may and do make roads for themselves, and it may happen that these will be so made in reference to each other, as to produce, by their combination, what is desired—national thoroughfares, for national convenience and national defence. But it may happen otherwise. I warn those who argue thus, who derive the power itself from the necessity and convenience of its exercise, against sending back to the States a power which the States themselves, upon similar reasoning, have expressly granted to Congress.

The interest which the United States, as a creditor, have in this question, ought not to be overlooked. One of the communications made by the Secretary of the Treasury, during the present session, (I cannot lay my hand upon it,) states that the preference intended to be secured to the United States, is defeated by partial assignments and dispositions of property made by the public debtors. The steady and regular collection of the public revenue, so important to the public service, is, at all times, worthy of the attention of Congress; and it must therefore be considered as a powerful recommendation of a bankrupt law, that it would effectually remedy the evil complained of. The wisdom of the Legislature may be able, perhaps, to devise other remedies; I know of none (and I do not say it without some reflection) that will be effectual, and not be liable to very great objections.

Upon the remaining part of the subject, that which relates to the condition of the debtor, I shall, at present, say but a very few words, not only because it has been fully and distinctly put before the committee by my honorable friend and colleague, (Mr. HOPKINSON,) but because it will be more proper to consider it when we arrive at that part of the bill which contains the provisions for his relief. The general design is to discharge

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him altogether, provided two-thirds of his creditors shall agree. The Commissioners are bound to sign his certificate, if he has been guilty of no fraud; but that will not discharge him. Two-thirds of his creditors must concur, and as they may either give or withhold their assent, at their discretion, without assigning any reason, they will, of course, be determined in their decision, by a general and comprehensive view of the whole conduct of the debtor. Has he been unfortunate? They will agree to his discharge. Has he been unjust, has he been careless, extravagant? They may, at their pleasure, refuse it. Is there anything unreasonable in this? If, by a summary process, you take all from the debtor, if he has fairly surrendered everything to his creditors, satisfied a large majority of them that he has been the victim of misfortune, not of misconduct, ought he to be held in subjection to the merciless resentments, or the merciless avarice of a few, and be condemned, at their pleasure, to idleness and despair? And for what purpose? Society is deprived of the benefits of his exertions; he is himself deprived of the use of those faculties which have been given to him; and for what? Does the creditor gain by it? Has he a chance of obtaining more? I have the authority of experience for saying, that the chance is not worth estimating. Look at the operation of those laws, which grant only a partial discharge. Is a creditor in a better condition for the hold he has upon the future earnings of the debtor? One of two consequences inevitably follows; the debtor either sinks into a state of hopeless and helpless inaction, or conceals the fruits of his industry by various contrivances that are hurtful to his and to the public morals. Besides, we must never forget, that it is for misfortune that this provision is to be made; for misfortune, which no prudence can avert or prevent, but which is inseparably incident to the pursuits of those who are proposed to be comprehended in this law. But I forbear, at present, to press this part of the case.

I would beg leave to remark, however, that I confine myself to the exemption of the earnings of his industry. I have no objection to give to his creditors whatever he may afterwards acquire by gift, devise, descent, or any other means, in short, but his own exertions. Of these he should have the full benefit, not only for his own sake, but for the sake of society.

It was not my intention to notice the objections to particular parts of the bill, nor will I at this time notice them. There are two or three objections of a more general character, upon which I will ask the indulgence of the Committee to say a very few words.

A system, it is said, must be a bad one, and contain in itself very strong temptations to fraud, which requires such bloody penalties as are to be found in the English statutes. The whole penal code of England is deeply stained with blood. When Blackstone composed his Commentaries, he mentioned, with regret, that of the offences which a man may commit, no less than one hundred and forty were capital felonies, punishable

with death. How many may have since been added by statute to the catalogue I do not know. The bankrupt laws of England are in the spirit of the rest of this code, and their penalties are no better evidence of the temptations offered by those laws, than are the penalties in the laws for securing life and property, that the security of life and property offers a great temptation to the perpetration of murder and robbery. You may trace it, if you please, to the state of society; you may trace it to the error of the Legislature, or to a general want of humanity in their institutions, to extreme prodigality in the punishment of death, but not to the mere existence of laws for securing life and property.

Again; it is said, that a bankrupt law must be a source of endless litigation, and the evidence of it is a bill that passed some time ago for completing the execution of commissions under the former law. To make this argument available, it would be necessary to know how many cases were finished, and how many remain incomplete. It might be useful, then, to compare the proportion of each, with the cases of each kind under the State insolvent laws. The comparison would be decidedly in favor of the bankrupt law, unless, indeed, the cases under the insolvent law are considered as terminating with the discharge of the debtor, for, in truth, very little more ever comes of them. It may be well, however, to remind the honorable member who thinks the want of a court of chancery of so great importance, that a system without it must be a wretched system; it may be well to remind him that one of the chief objections to a court of chancery, so commonly urged, is, that its proceedings are interminable. But I am sensible that I have already trespassed too long.

Mr. SMITH, of Maryland.—The Committee having refused to rise, and being called upon to take the floor, I will attempt to give my views of the bankrupt bill, now under consideration; oppressed by a violent head-ache, I fear that I shall give little satisfaction to myself, and less to the Committee.

If, Mr. Chairman, I understood the bill as explained by the gentlemen from Virginia, (Mr. TYLER, and Mr. PINDALL) I should certainly vote with them for striking on the first section. They call it a bill to give peculiar privileges to the traders of the United States; that it will raise up a privileged order in the nation, which will endanger the Union. A privileged order, Mr. Chairman, and that order composed of bankrupts! The idea is surely laughable. What, (said the first gentleman, Mr. TYLER) have the merchants done that they should be clothed with those high privileges? They, it is true, lent their money to Government: and money is the sinews of war; for so much they have credit. But it is to the yeomanry, the mechanic, and other classes, we are to look for the bone and marrow; to the body of merchants he refuses to acknowledge their personal aid. He may be right as to some parts of the United States; certainly not so where I am acquainted.

[Mr. TYLER here explained, by saying, that he had not intended to detract from the merits of the merchants, and that his expressions did not admit of such a construction.]

Mr. S. continued. I know, said he, no distinction of classes. During the late war, all rendered their personal services when necessary—the farmer, the mechanic, the merchant, the lawyer, all did their duty. The list of killed and wounded at Baltimore will show as many merchants in proportion to numbers, as that of any other description of citizens. I claim no particular merit for them; I only ask of the gentleman to believe, that he will find among the young merchants nerves and bone as strong and as firm as he will among those of any other profession or class of our citizens.

When the gentleman last up (Mr. PINDALL) shall have been some time in Congress, he will discover the impolicy, the great impropriety of attempting to excite feelings in the minds of members hostile to any class of our citizens; his own good sense will teach him, that all have equal rights to approach this body by memorial, and that it is his duty to attend to their wants; he will see, that he is travelling out of the line of propriety when he makes the attempt (unworthy of his talents) to throw a stigma against any class or sect.

[Here Mr. PINDALL rose, and declared that he meant no personal allusion.]

Certainly, Mr. Chairman, the gentleman made no personal attack; it was general and severe against the whole class of merchants and traders. He likened them to Judas Iscariot; he told us that "Judas was a money changer, a trader, a dealer in exchange, and could have claimed admission into the privileged order of merchants, under the first section of this bill." The gentleman's zeal against the merchants has induced him to misquote even the Scripture. Judas did not carry the money bag, as he has stated; he was not a money changer; he never dealt in exchange; he was no trader, unless the gentleman means to say, that his selling his master constituted him a trader. But who, Mr. Chairman, were the purchasers? I am informed by a gentleman near me, that they were lawyers. But I do not find that the Jews had lawyers, so called, among them. The great enemies of our Saviour were Scribes and Pharisees, and they were the recorders and expounders of the law, and may be considered as what we call lawyers.

The gentleman (Mr. PINDALL) has given a pledge to the gentleman from Pennsylvania, to wit: that if he will prove to his satisfaction, that the Christian doctrine enjoined a forgiveness of debts, he will vote for the bill. If I prove that the Good Book does contain that doctrine, the gentleman will, I trust, redeem his pledge. Apprehensive that the gentleman from Pennsylvania would cavil at the Episcopal version of the Lord's prayer, he protested against construing the word trespass into debt. Mr. Chairman, the Episcopal church say the prayer thus, "and forgive us our trespasses as we forgive those who trespass against us;" but,

sir, neither you nor I were taught the prayer in those words; no, sir, we were taught agreeably to the literal translation. Let the gentleman look to the Testament, Greek, or English, and he will find the words are, "and forgive us our debts as we forgive our debtors." Here, sir, we are distinctly enjoined to forgive our suffering fellow mortals; nay—we make it a condition of our prayer, that on our forgiving our debtors we trust that it will afford to us a hope that our sins may be forgiven. Let the gentleman consider well his situation: he will forgive no man, although he relinquishes all his property. Once a debtor always a debtor, is the creed of the gentleman. Again, our Saviour declared forgiveness of debts in a parable. A certain King called on his debtors to pay the debts due to him. One man appeared and claimed a forgiveness of his debt, for that he was unable to pay. The King ordered him into confinement, but the man prostrated himself—that is, he entreated to be heard—and, if situated as some of our unfortunate merchants are, he would have said, Your honor and the interest of the nation requires a restrictive system, succeeded by a war; my ships lay idle, they became rotted, and those which cost forty talents have been sold for ten, and I have thereby been ruined, and am rendered unable to pay my debts. Did the King answer as the gentleman would have done? No, sir; he ordered the man to be discharged, and his debt to be forgiven. Here, sir, the gentleman must see a forgiveness of debts enjoined. But, sir, what followed? The man departing, met his debtor, seized upon him, and (holding to the creed of the gentleman) was hurrying him to jail, for he forgave no man. The King remanded the unjust man, charged him with cruelty towards his neighbor, and punished him by close confinement. If the gentleman had read the Good Book as attentively as he had Lord Coke, he would have known that the doctrine of the Christian religion is love and forgiveness towards each other. "Do unto others as you would that others should do unto you," is the commandment given to all Christians. I trust the gentleman is convinced, and must, as a man of honor, redeem his pledge.

The gentleman has endeavored to fill our minds with terror, to excite horror against the bill, by detailing a variety of cases under the bankrupt law of England punishable with death. Well, sir, and what are the sanguinary laws of Great Britain? What bearing on the bill before us? In it you find no sanguinary feature. The gentleman would find the same cause of apprehension on the discussion of any law for the punishment of crimes. The British law punishes with death; we, for similar crimes, by fines, imprisonment, or hard labor for a term of years. Such flights of fancy, such reasoning from unfounded premises, are unworthy of the talents of the honorable gentleman, and more experience will induce him to refrain from the use of them in this House.

The gentleman understands the bill as for the benefit of the debtor, and asks, why is it not applicable to all classes as well as the traders?

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Why may not the farmer also have an easy mode of being relieved from his debts? His idea is bottomed on the acts of insolvency, not on a bankrupt law—not on this bill, for this bill is intended to protect the creditor against fraudulent conduct on the part of the debtor. Under the insolvent law, the debtor applies for a release from his debts, or in some States for the benefit of the act to prevent the confinement of his person. The bill before us provides, that whenever the creditors discover that the debtor is using means to defraud them, by concealing his property, by disposing of it in trust, by securing one creditor to the injury of others, or by other acts, with intention to defraud them, they may, under the provisions of this bill, make him a bankrupt, and compel him to deliver up all his property; to disclose any that he may have fraudulently conveyed to others in trust; to discover any property that he may have concealed; to account for money improperly paid to favorite creditors; in fine, to show a fair state of his affairs, so that all the creditors may have a fair and honest dividend of the bankrupt's estate. If the debtor acts honestly, and delivers up all that he has, and shows that he has committed no act of fraud, he is discharged from his debts, provided that two-thirds of his creditors in value and number, shall subscribe his certificate; that proportion of number will not liberate him, nor of value; he must obtain two-thirds of both number and value to his certificate, or he is not to be liberated. Is that not sufficient? Would a humane man ask better security? But if that number is not sufficient, the gentleman can propose three-fourths. No, sir, the gentleman says, that if there be one creditor who will not consent, he ought not to be free. One cruel, avaricious creditor shall keep the unfortunate debtor hung up for life on the tenter-hooks of despondency and despair, and thus incapacitate him forever from being able to provide for his family; thus unnerving his industry, for who will trust a man over whom a heavy debt hangs, in the hands of an inexorable creditor, in whose power it will be to seize on his earnings at his pleasure? It is not in human nature to labor, to use exertions under such circumstances. And will the gentleman commit the happiness of his fellow-citizen to the will of one creditor? Yes, said the gentleman, once a debtor always a debtor. "I stand by the law; I will have my contract, 'most grave and potent signors. The law of Venice gives it to me; I will have my law; I will have my pound of flesh." And will you, Mr. Chairman—will this honorable House, concur with the gentleman, in holding an unfortunate debtor bound for life, after he has honestly delivered up all that he has of property? No, sir, I will not, cannot, believe it possible.

The gentleman says the law ought to be general, to include all classes. Would he subject the farmer to the severity of a bankrupt law? If he would, I cannot. One third of my constituents are agricultural, and I cannot consent to subject them and their estates to the provisions of this bill; nor do I believe there are many in this

House who would.\* What is the first section? If a trader depart from the State; remains absent therefrom; conceals himself, keeps in his house, so that process cannot be served; or departs from his dwelling; procures himself to be arrested, or his lands or goods to be attached, distrained, or taken in execution; shall conceal his goods; shall make a fraudulent conveyance of his property; shall admit a fraudulent security; shall remain in prison two months, or shall escape therefrom; for any of these, and for some other acts, the creditors may bring him under the bankrupt law, and compel him to deliver up his land and all his property to his creditors. I believe, Mr. Chairman, that the farmers would not thank the honorable gentleman for subjecting them to such a law; they would by no means consider it as a favor conferred on them; they would rather be excused from having the honor to belong to such a privileged order—a privilege that would enable their creditors to sell their land by a process so summary.

The gentleman objects to the 19th section; that section provides, that if any person against whom a commission has issued, shall commit any fraud, as described in this section, or shall not, within forty-two days, surrender himself, he may be punished by being imprisoned not less than twelve months, nor more than ten years. The gentleman told us that, for such an offence, the English law punished with death; but was it fair for him to say that the section punished with ten years' imprisonment in every case where the person did not surrender himself in forty-two days? Was it fair for him to conceal that the punishment might be only twelve months? Was it fair for him to conceal from the House that the very next section authorized the judge to extend the time fifty days beyond the forty-two days? And is such punishment too severe for a debtor who attempts to defraud his creditors, or refuses to surrender agreeably to law? The gentleman here has changed his ground, and has found out that the law is not made for the debtor alone. Does the gentleman mean to encourage fraud? No, sir, I am sure he does not.

The 21st section displeases the gentleman. What is the complaint? That when the bankrupt (made so under the law) shall refuse to surrender, and shall have concealed his property, his doors may be broken open. I can see nothing oppressive in that measure. A commission must have been issued, and he ought to be compelled to deliver up his effects to the law for distribution.

The 24th section is also grievous to the eye of the gentleman, and what is it? That a person who conceals a bankrupt, knowing him to be such, may be imprisoned not exceeding twelve months, and fined to the amount of one thousand dollars. And would not such an offence merit such punishment?

The 26th section provides, that, if a bankrupt

\* A motion to make the bill general, was made, and only thirty members voted for it.

acts honestly, he shall be allowed a per centage on his estate.

The 37th section provides, that the bankrupt before he can obtain a certificate of discharge, must make oath that he has made a full discovery of all his property, and that the consent of his creditors has been fairly obtained.

The 61st section provides, that a priority of satisfaction for debts due the United States shall continue.

The 62d section provides, that liens, existing at the date of this act, shall be valid.

A great objection is made to the wife being compelled to give testimony in the case of her husband. It will seldom happen, and can only be when she is suspected of having herself concealed or disposed of the effects of her husband—and certainly it cannot be very severe to compel her to discover what she may have concealed, with intent to defraud the creditors of her husband. The great object of the bill is to prevent fraud and collusion; to secure to the fair creditor a fair proportion of the effects of the debtor; and as a reward for his honesty (in relinquishing all his property) to discharge him from his debts. But it is said, that the farmer has not a fair chance with the merchant; on the contrary, the provisions of the bill put all on a footing. Let us take a view of the unfortunate debtors about to fail. The custom-house requires two securities to each bond, and the merchants are under the necessity of becoming security for each other; they cannot avoid it. Such debt is considered the first debt of honor; the Government must be paid, and the person about to fail secures, if possible, the friends who were his securities on the custom-house bonds. No merchant can obtain a discount at bank without an endorser; of course, they must endorse for each other, and, if the person finds he cannot go on longer with his business, he secures the friend who has endorsed for him, and stops payment, when there is probably little left to divide among his other creditors; and the planter or farmer, if a creditor, will always find that his debt is lost—nay, sometimes a great price is promised him for his crop, to enable the debtor to secure his securities. One of the objects of the bill, is to prevent or correct such conduct. If the debtor happens to reside in New York or Maryland, he applies as an insolvent debtor, and is discharged from all his debts without much trouble; if he is of some other State, he can remove into one of those States, and, after a certain term of residence, apply under the acts of insolvency, and receive, without difficulty, a release from his debts. In Massachusetts they proceed somehow by attachment, which answers their purpose; in Pennsylvania and Virginia, the debtor, in delivering up his property, secures his person from arrest, and may remove into Maryland, and be released from all his debts, after a legal residence. The framers of the Constitution foresaw the present condition of the States, and wisely provided that Congress should have the power to pass a uniform bankrupt law. And surely it is time that we should adopt some

rule that shall be uniform throughout the Union. We have become a great commercial people, and ought to adopt a system that shall give to the foreign debtor a fair share of the effects of a bankrupt debtor, and some rule by which the debtor may be prevented from fraudulently disposing of his property, to the injury of his creditors. Such a system is to be found in the bill now under consideration, and I trust it will be adopted.

The gentleman (Mr. PINDALL) said, that if a merchant shall aspire to the honor of a seat in this House, his day book and ledger, his accounts current, and calculations of profit and loss ought to be left in his counting-house. The gentleman, then, thinks that a seat in this House is an honor rather too high for a merchant to aspire to it. For if the people will send a merchant, he will not consider himself contaminated by his presence; but trusts he will come here free from prejudice. I refrain from retorting this observation on the gentleman, from respect to the other gentlemen of the bar. I wish the gentleman had left his own prejudices at home; they appear to have misled him in the course of debate. The gentleman will, however, accept the tender of my high consideration for his great condescension. The gentleman has expressed his great alarm lest the merchants should monopolize all power, and therefore would exclude them from a seat in Congress, and thus secure more power to the class to which he belongs.

The gentleman is alarmed that this law will extend itself over the Alleghany; and why not? If a trader from the gentleman's district shall purchase goods at New York, and vest their proceeds in land, the bill would authorize the creditors to obtain a commission of bankruptcy against him, and the land thus obtained could be sold. How is it now? The debtor in Virginia vests his creditor's money in land, swindles and laughs at him. The land cannot be sold in Virginia for debt; it may be extended, and the profits applied, but where will any gain arise, unless the land be well managed? And here, Mr. Chairman, is the secret of the opposition of both gentlemen from Virginia. They are not willing to subject the land to be sold for payment of just debts.

The gentleman has told us of guilds, Lombards and merchant traders, of the steelyards, in London. He says that they were bound for the debts contracted by each other, and asks whether we are willing to bind the merchants to pay the debts of each other?—Mr. Chairman, what a question! If, however, he will grant monopolies, such as those foreign merchants in England possessed, to a number of merchants of the United States, they will certainly undertake to be answerable for the debts of each other. The gentleman has lately been reading Anderson on Commerce, and must know that those companies existed in London at a time when England had no native merchants; when she depended on the Hanse Towns for her commerce, and on the Lombards, as bankers—when those foreigners laid the whole nation under contribution, as did the Scotch factors in



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Virginia and Maryland, prior to the Revolution; and that it was necessary to pass such a law, as a corrective to frauds. The bill before us is intended to correct frauds, but in a more rational way.

Mr. Chairman, I think I have shown that this bill creates no monopoly—no exclusive privilege to the traders; that it will tend to prevent frauds on the part of debtors, will create uniformity throughout the Union, will do no injury—but that benefit to the commercial character of the United States may and will result therefrom.

After Mr. SMITH had concluded, Mr. TYLER stated that he had hoped that no expression used by himself would have been misapprehended by any gentleman; and more especially he had flattered himself that when he had disavowed any such intentions as the gentleman from Maryland had ascribed to him, such disavowal would have been accepted. I did not inquire, said Mr. T., what the merchants had done to merit our favor, but I did ask what the farmer, the manufacturer, and the mechanic, had done to forfeit their claims to your patronage: two propositions, very dissimilar in character. Mr. T. said, that he had supposed no merchant could have been offended at his remark, when he had assigned to that class so important a part of the political existence, as its sinews. The gentleman from Maryland tells us, that he also has agricultural constituents, and he has claimed for the merchants the sinew, the bone, and the marrow. What part of the political anatomy will he assign to that portion of his constituents who are farmers and mechanics? Will he make them the hair of the head, to be shorn off at pleasure, or the dust of the feet?

Mr. SMITH rejoined a remark or two in explanation of his allusion to Mr. TYLER. He claimed *some* bone and *some* marrow for the merchants, as well as for the agriculturists.

The Committee then rose, reported progress, and asked leave to sit again; which Mr. BASSETT in vain objected to granting, the leave being accorded by a large majority.

THURSDAY, February 19.

Mr. NEWTON, from the Committee of Commerce and Manufactures, to which was committed the bill from the Senate, entitled "An act concerning the district of Brunswick, in the State of Georgia," reported the same without amendment, and it was ordered to be read a third time to-day.

The SPEAKER laid before the House a letter from the Secretary of the Treasury transmitting a statement of the moneys paid for defraying the expenses of the commissioners under the fourth, sixth, and seventh articles of the Treaty of Ghent; which was read, and ordered to lie on the table.

Bills from the Senate of the following titles, viz:

An act concerning the district of Brunswick, in the State of Georgia;

An act supplementary to the act, entitled "An

act further extending the time for issuing and locating military land warrants, and for other purposes;" and,

An act to authorize certain purchasers of public lands to withdraw their entries, and transfer the moneys paid thereon; were severally read the third time, and passed.

On motion of Mr. HUNTINGTON, the Committee of Ways and Means were instructed to examine an act, entitled "An act regulating the currency within the United States, of the gold coins of Great Britain, France, Portugal, and Spain, and the crowns of France, and five franc pieces," passed in the first session of the 14th Congress, and ascertain whether the same does not require legislative interposition. The said act, in the first word of the 10th line of the first section, reads seventy, when it is obvious, from the rest of the section, it should read twenty.

#### BANKRUPT BILL.

The House again resolved itself into a Committee of the Whole on the bill to establish a uniform system of bankruptcy.

Mr. MILLS, of Massachusetts, said, the great importance of the subject now before the Committee to the commercial portions of the Union, and particularly to the State which he had the honor, in part, to represent, was the only motive which could induce him, in the present state of his health, to mingle in this debate. But viewing it, said Mr. M., as I do, of vital moment to the interests of this country, of vastly more importance than any subject which has for years been submitted to your consideration; and knowing, as I do, the anxiety with which the eyes of thousands, now suffering in wretchedness and poverty for the want of such a system, are directed to your deliberations, I must beg the indulgence of your patience, while I submit for your consideration a few remarks, to show the necessity of some uniform system of bankruptcy throughout the United States, and while I endeavor also to answer some of those objections which have been urged against the adoption of such a system.

Sir, said Mr. M., the gentleman from Virginia, (Mr. PINDALL,) who has occupied so large a portion of our time in this discussion, has, I am sure, with no improper views, drawn our attention to a great variety of considerations, not necessarily involved in any bankrupt system, and most certainly forming no part of that which has been, with so much industry and care, presented for our adoption. So deeply does he seem to have imbibed the conviction, that every such system must be radically wrong, and productive of nothing but gross frauds and sanguinary punishments, that he has been unable to bestow upon it that unbiassed and candid examination which is due to a measure of so much importance. Permit me, then, sir, to recall the attention of the Committee to the real question which the motion now before them presents to their consideration. The motion is to strike out the first section of the bill; a motion which, by parliamentary usage, has nothing to do with its details, but goes only to

test the principles necessarily embraced in the measure. The question, then, now before you, sir, is not, will you pass this bill with all its provisions, limitations, and penalties? but, will you adopt a system of bankruptcy which shall be uniform in its operation throughout your country, affording to all, within its purview, the same protection, and extending to them the same remedy? If the gentleman from Virginia is dissatisfied with that provision which makes the wife liable to be examined as a witness, in certain cases, to discover the frauds of her husband, let him wait till that provision is distinctly under consideration, and move to expunge it. If he objects to that section which authorizes the commissioners to break the doors of the bankrupt, who may have concealed his property from his creditors, let him adopt the same course. If he wishes to extend the operation of the bill to other citizens than those already embraced in it, let him introduce an amendment to that effect. If, in short, he is opposed to the details of the bill, or those parts only which point out the mode by which the principal objects may be attained, and the penalties imposed on those who are guilty of an infraction of its provisions, parliamentary usage and common courtesy alike require that such modifications should be attempted as will give it the fairest prospect of meeting the wishes of a majority. Still less, sir, ought a measure of this kind to be defeated, by calling into action those prejudices which may have been imbibed against the laws, the jurisprudence, or the commercial regulations of other countries. Once establish the principle, that the situation of the country is such as to require the exercise of that power with which the Constitution has vested you upon this subject, and whether the prominent features of your system shall be drawn from the commercial code of Napoleon, or the acts of the British Parliament, will be a mere question of expediency, to be determined by their relative merits, and their analogy to your habits and institutions. Sir, I shall not stop here to inquire into the extent of the obligation imposed on you by the Constitution. It is enough for me to find the power "to establish uniform laws on the subject of bankruptcies throughout the United States," expressly delegated to Congress by that instrument, and to satisfy myself that the exigencies of the country require its exercise, to appreciate the weight of this obligation. Too long already has this delegation of authority remained a mere dead letter in that compact; and too long have those for whose benefit it was introduced, called upon you to give it life and energy and action. Look to the commercial nations of Europe; none of them are destitute of some regulations, by which the relations subsisting between a creditor and his unfortunate or fraudulent debtor are governed, calculated for the protection of the honest and the detection and punishment of the dishonest. Let us no longer form an exception to that great commercial family, of which we are so distinguished and prominent a member; but let us profit by the wisdom and experience of others. Indeed,

sir, in no other nation does a system of this sort appear to me to be so necessary. In most other countries, the laws which prevail in one portion of the empire are, upon every subject, and especially commercial subjects, the same which prevail in another portion. They have no separate sovereignties, nor conflicting regulations. A system of bankruptcy there is not necessary for the purposes of uniformity, for all their laws are uniform.

But in this country what is your situation? A confederation, formed of twenty distinct, and, in respect to their internal regulations, independent sovereignties, with laws (especially in regard to the collection of debts,) varying from, and in many respects contrary to, each other. In some of the States, attachments are made upon mesne process, in others the remedy is against the body of the debtor; in some, a judgment operates as a lien upon all his estate, and in others most of his estate is free from all but a nominal liability for his debts. In many of the States there are insolvent laws, indeed; but in no two States are their provisions, or the practice under them, alike, I believe, unless it be that in all the person of the debtor is discharged, and the creditor, especially the distant one, seldom receives any portion of his debt. Sir, this complicated state of uncertainty, diversity, and hostility, ought not to continue. The business of the merchant requires that he should give and receive extensive credit in different States. To do this with safety, the rules which govern the relation of debtor and creditor, should be correctly defined and well understood. Where is the merchant, nay, where is the member of this House, who can tell you the regulations of the different States upon this subject? Sir, this debate has shown that they are not within the knowledge of any individuals here. "Miserable indeed," we are told, "is the situation of that people where the laws are vague and uncertain."

Ask the planter of South Carolina or Georgia, what security the laws of Massachusetts give him for a debt due from the merchant in Boston. Or, ask the merchant in Boston or New York, by what means he is to collect his money from his factor or consignee at the South. Each, sir, will be suspicious of the other. The planter of the South would be apprehensive that the process of attachment which prevails in Massachusetts, would enable some more fortunate creditor in the vicinity to secure his debt, by sweeping away the property of the merchant in Boston; and, on the other hand, the merchant would be equally apprehensive of some legal exemption or general assignment of the property of the consignee, or the operation of some act of insolvency, which should place that property beyond his reach. Thus is that mutual confidence, so necessary to mercantile credit and commercial enterprise, entirely destroyed. And even between States in the immediate vicinity of each other, as New York and Massachusetts, a sort of "border war" is continually carried on, by the process of attachment on the one side, and the laws of insolvency on the

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other, equally detrimental to the rights of the creditor and the moral integrity of the debtor.

The present system, also, or rather the present want of system, deprives the Government of the benefit of that precedence or priority over individuals, which your revenue laws intended to secure in regard to such debtors as should not have sufficient property to pay all their debts; for in States where attachments prevail, for the benefit of the attaching creditors, in the order in which they are made, it is very clear that the whole estate of the debtor may be seized upon by individual creditors, before the bond to the Government falls due, or before it is known that he will be unable to pay his debts. And in States where insolvent laws are in force, the very apprehension of this priority induces the debtor, before he takes the benefit of those laws, to assign his property to some favorite, or perhaps fictitious, creditor; and in either case the Government is left remediless. The documents furnished by the Secretary of the Treasury, and now upon your table, complain of the existence of this evil, and an inquiry into facts will show that it is of no inconsiderable extent. Sir, thousands, and sometimes hundreds of thousands of dollars, have been annually lost to your Treasury in this way, and, as the Constitutional guardians of that Treasury, your duty requires that an effectual remedy should be provided. Such a remedy, it is confidently believed, is now offered. The debts due to the Government are chiefly from merchants, upon custom-house bonds; and if, upon the happening of one of the events described in the first section of this bill as an act of bankruptcy, commissioners should be authorized to seize upon the property of the merchant, few cases indeed would occur where that property would not be more than sufficient to pay the entire debt of the Government, thus entitled to priority.

But, says the gentleman from Virginia, (Mr. PINDALL,) "let the State Legislatures pass insolvent laws." Sir, a slight consideration of the subject will show that these laws would afford a remedy altogether inadequate to the evils intended to be provided for by this bill. Indeed, in my humble judgment, many of the evils under which the mercantile portion of the community now labors, result from the operation of the State insolvent laws. At any rate, sir, the same uncertainty, resulting from a want of uniformity, and the various systems of different States, would exist to perplex and harass the distant creditor.

Besides, gentlemen greatly err in considering insolvency and bankruptcy as synonymous.—They are not convertible terms. A man may become insolvent without ever having committed an act of bankruptcy, and he may commit an act of bankruptcy, and yet have sufficient property to pay all his debts. Instances have occurred, rarely I admit, where a trader in Great Britain has done that which justified the suing out a commission of bankruptcy against him; his property has, consequently, passed out of his control into the hands of commissioners; and upon a full

settlement of his concerns, every honest creditor has received his twenty shillings in the pound. Indeed, one of the principal advantages of a bankrupt law is, that, upon the happening of certain events, which indicate fraud or imprudence in the trader, it enables the creditors to interpose and arrest his career of indiscretion or dishonesty, by securing his property for the equal benefit of all, in proportion to their respective claims. It is, in contemplation of law, at least, an adverse proceeding on the part of the creditors against the debtor, for the purpose of divesting him of his property, and preventing its being fraudulently conveyed or concealed, and of obliging him to make a full and fair surrender of his property, and disclosure, under oath, of all his transactions in relation to it; and, according to the present bill, it is not until two-thirds in number and value of his creditors, people most interested in the inquiry, are satisfied that he has so surrendered and disclosed; that he has made no secret or fraudulent conveyance, and in all things conducted himself honestly in this behalf, without giving preference to one over another, that he can be entitled to his discharge.

Very different is the course of proceeding usually adopted, I believe, under the insolvent laws. The man who intends to avail himself of their liberal provisions, finding himself embarrassed, and foreseeing the fate that awaits him, makes his own arrangements to meet it. The debts of his father, his brothers, his endorsers, his favorite, or perhaps his most unfortunate creditor, are paid in full, and having divested himself, at his leisure, of all his property, he then, at his own instance, or on the application of his friends, is permitted to pass through the requisite ceremonies of discharge, although, perhaps, in some cases, not more than one-fourth of his creditors may have any actual notice of the proceedings, or any opportunity of examining into his affairs. Instead, therefore, of opening the door to frauds, as the gentleman from Virginia has said this bill would do, it will, in my apprehension, most effectually tend to prevent those frauds which are now so prevalent among us.

The temptations to fraud will not be increased, and you will be furnished both with the means of detection and the power of punishment; and I have yet to learn that men are deterred from offences by the impunity with which they may be committed, or that crimes are multiplied by the infliction of punishment upon the offender.

Most of the States have already, I believe, as has been suggested, insolvent laws of greater or less efficacy. But this is not the case in all. The State, sir, which you, (Mr. LIVERMORE, of New Hampshire,) and the State which I have the honor, in part, to represent, have not as yet adopted them—and from the little I have known of their operation, without pretending to be intimately acquainted with their provisions, I do not covet what some gentlemen seem disposed to consider so great a blessing. Inconvenient and unequal as is our system of attachments, I am by no means disposed to exchange it for the insolvent

systems with which I am acquainted. Still, sir, great fraud and injustice are sometimes practised under our laws, and great inequality is frequently produced where no fraud is intended. The vigilant, the sharp-sighted, or the unfeeling creditor may always get the preference of the indulgent and compassionate, or the distant one. Frauds, too, may be committed by the debtor, which it is impossible to detect or punish. Preference may be given to favorite creditors, upon the case of a failure, and fictitious debts created, against which no defence can be made by the bona fide creditor. A trader, in contemplation of bankruptcy, may make his note, without consideration, to his most confidential friend, for any amount; a process of attachment may be immediately sued out upon the note, all the debtor's property seized, without any affidavit on the part of the creditor of the justice of his claim, and no person on earth can oblige him to disgorge his plunder; nor will any one be allowed to dispute the validity of the demand in a court of justice, except the debtor himself. Here, indeed, sir, is a strong temptation to fraud, the temptation to provide for one's own family, without any means of detecting or defeating it. Against such and so many evils, surely some remedy, more efficacious than the State insolvent laws, is imperiously demanded.

But, sir, are you sure that, since the adoption of the Federal Constitution, the State Legislatures have any legitimate authority to pass those laws? By that instrument it is contended Congress alone have power to establish a uniform system of bankruptcy, and the States are expressly prohibited from passing "any laws impairing the obligation of contracts." So far, therefore, as these laws impugn either of these provisions, so far they transcend the powers retained by the States. Upon this subject, however, I wish not to be understood as giving an opinion, or attempting to sustain an argument. The question is still *in nubibus*. One judge of your Supreme Court, of great respectability, has given an opinion against their constitutionality; and another of equal respectability in their favor. And it now remains for the full court to decide the difficult and important controversy.

We are told, too, that a bankrupt system would prove a fruitful source of litigation, and that the property of the debtor would be swallowed up by the commissioners and assignees. Sir, in answer to this objection I can speak only in respect to those States with whose laws I am best acquainted, and there, sir, I can assure the gentleman, so far from increasing, it would blight and destroy a most plentiful harvest of litigation. By the bill now under consideration, a single process is to settle the concerns of the debtor with all his creditors. Whereas, under the laws of attachment, hundreds of suits are sometimes commenced in rapid succession, each creditor pursuing his own interest alone, and in this multiplicity of suits and general scramble for property, I leave it to the gentleman from Virginia (Mr. PINDALL) to decide how much would find

its way to the pocket of the creditor, and how much to the officers of the law, or which would derive the greatest benefit from this procedure.

But it is said by the gentleman from Virginia, (Mr. PINDALL,) that this is a "system of exclusive privileges and extraordinary liabilities;" that it will create a privileged order in the community, inconsistent with our republican institutions, by conferring favors upon the merchant at the expense of the agriculturist; and the honorable gentleman has called our attention to the origin and progress of the bankrupt laws of England in proof of this position. Sir, can that gentleman, with all his ingenuity and historical research, persuade you that, in the reign of Henry the Eighth, the merchants were a favored class of British subjects? Can he persuade you that the sturdy Barons and extensive landholders, who composed the Parliament of that and the subsequent reign, were disposed to sacrifice the interests of agriculture to the *personal* aggrandizement of the merchant? No, sir, examine the history of those times; look at the preambles of the statutes of 34 Henry VIII, as well as those passed in the reigns of Elizabeth and James the First, and to the penalties contained in them, and you will at once perceive that the interest and security of the creditor, were solely consulted in these early times. That, in regard to the debtor, the laws were considered as highly penal, calculated to *restrain* imprudence, extravagance, and negligence—enacted at a time when, in the quaint language of my Lord Coke, "the English merchant had rioted in three kinds of costliness, viz., costly buildings, costly diet, and costly apparel, accompanied with neglect of his trade and servants, and thereby consumed his wealth."

The system now proposed confers no exclusive privileges, it imposes no extraordinary liabilities. It extends equal security to every creditor, protection to the honest but unfortunate debtor, and holds the rod of correction over the dishonest, the profligate, and the fraudulent. Is this too much for the merchant to ask at your hands? But it is not as the friend of any particular *class* of the community, that I call upon you to establish this system. It is because I believe it will contribute to the protection and support of the great interests of the nation. If I believed that the interest of the country required that a bill should be passed for the protection of agriculture, no one would more readily support it. But, as the Representative of an agricultural district, I will not consent that the farmer, whom I represent, merely for the non-fulfilment of a contract, in which the public has no interest, shall be made liable to a commission of bankruptcy, suffer his houses and his lands to be transferred to assignees, and his estate to be administered upon in his lifetime. Neither public policy, nor individual security, requires that this course should be pursued with the farmer; while both unite in extending it to the merchant.

The one "pursues the even tenor of his way" in a limited sphere, encountering but few risks beyond the reach of ordinary calculation; while

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the other, in his more extended sphere of action, is exposed to ruin by events against which no human foresight can guard; the misfortunes of others, the elements of nature, the varying policy of his Government, and the injustice or rapacity of other nations, are alike the cause of his destruction.

The protection and encouragement of commerce, sir, has ever been considered as essential to the prosperity of this nation. The situation of your country, the hardy enterprise of your people, and the provisions of your Constitution, alike impress upon your consideration the importance of trade. What, sir, induced the Eastern and commercial States to wish for the establishment of your present form of Government? It was not solely that they might rely upon the strength of your arm for protection and defence; but that their intercourse with other nations might be favored and facilitated, and the interests of trade cherished and extended. For this they gave you the control of their revenue—the power to establish courts of justice—to regulate commerce, foreign and domestic, and to establish an uniform system of bankruptcy. Sir, for all the encouragement which commerce receives at your hands, it makes a most ample and liberal return. It is commerce that adorns and embellishes society; it diffuses the comforts and elegances of life, wealth, and the means of information through your land, promotes and encourages the arts—extends the hand of munificence in the cause of literature and science—erects asylums for the miserable and the destitute—establishes liberal, and humane, and moral, and literary, and religious institutions, and covers the face of your country with the smiles of intelligence and the radiance of hope? Who is it, sir, that fills the coffers of your Treasury with wealth? The merchant. Who sustained and resuscitated your sinking credit, when driven to your “utmost need?” Who are the nursing fathers of that hardy and intrepid race of men that established your renown upon the ocean, and “plucked from the deep the drowning honor of your country?” Surely, sir, the interest and the pursuits of the merchant require some consideration from a Government which has received such fruits at their hands.

But, sir, there is one other objection urged by the honorable gentleman from Virginia, (Mr. PINDALL,) so novel and extraordinary in its character, that I cannot permit myself to pass it over in silence. The gentleman complains that a complete system of bankruptcy is to be “palmed upon us” at once, although the English system has been the work of three centuries, and is contained in nineteen different statutes. Sir, where does this argument tend? Would the gentleman lead us back to the ages of barbarism, and oblige us to pass, by gradual advances, to a state of civilization? Are we to reject the improvements of ages, and to disregard the progress of society, in the arts, the sciences, and in civil polity? Would the gentleman be willing to have this argument applied to the science of law, in

which, I understand, he is a distinguished proficient? Would he throw aside the forms of proceeding now in use in our courts, because the *system* was introduced complete, though the lapse of ages was necessary to perfect it in England? Would he discard that admirable system of logic to be found in special pleading, the use of which is so familiar to him, for the loose and irregular and vague form of proceeding *ore tenus*? The great principles of civil liberty, upon which all our institutions are founded, are not to be disregarded, because they sprung up in other ages, and arrived, by slow degrees, to that state of perfection in which we adopted them. Sir, we have been singularly favored by Providence. No night of barbarism ever overshadowed our country. Like the fabled goddess from the brain of Jupiter, we sprung into national existence, in the fulness of stature, and all the maturity of wisdom.

Sir, I will no longer detain the Committee. Believing that the adoption of an uniform system of bankruptcy will subserve the interests of the Government, and promote the prosperity of this great community, I hope the motion to strike out the first section of this bill will not prevail.

Mr. TUCKER, of Virginia, said, that in asking the attention of the Committee to a few remarks on the subject of the bill under consideration, he was aware he solicited from their accustomed politeness what a very natural impatience at this stage of the discussion might be disposed to deny him. But, while the principles of the bill were so ably and zealously defended by gentlemen who were the peculiar representatives of the mercantile interest, it became more than ever the duty of those who came from agricultural districts to scrutinize its principles for themselves, and to resist a system which they believe pregnant with evil, partial in its operation, and bearing hard on a class of the community who ask for no assistance from the legislative body, and too rarely find it sufficiently attentive to their interests.

We have been reminded, sir, by the gentleman from Massachusetts, (Mr. MILLS,) that the subject now peculiarly under discussion is of a more circumscribed character than it seemed to be supposed by those who went before him: that the motion to strike out the first section of the bill involves not the inquiry whether *this* bankrupt law shall become a legislative act, but whether *any* bankrupt law shall pass; that by striking out this section the whole system is negatived, and we virtually declare our determination to make no effort to remedy the many and serious evils which flow from a diversity in the State systems of insolvency. He recommends, therefore, to those who may be averse to particular provisions in this bill, to seek its amendment rather than to produce its destruction. But the effort, sir, would be vain. We have sufficiently, though informally, ascertained that the most zealous advocates of the bill regard as essential certain provisions to which the majority of the Committee are disposed, I trust, to give a decided negative. Are gentlemen willing to strike out that clause which provides

for the release of the bankrupt from his debts upon receiving his certificate? I understand them to consider the bill *without* this provision as not worth a rush; *with* such a provision, it never can receive my consent. Are they disposed, in consonance with the avowed principle of making this a law between merchant and merchant only, to insert a proviso, that as the debt of the farmer or mechanic to the merchant cannot be discharged by bankruptcy, so neither shall the debt of the merchant to the farmer or mechanic be annulled by the operation of the act? Such a principle seems to be founded in the law of reciprocity, since, if the act be confined to merchants, it should affect only debts which are due to that favored class of the community. But, will gentlemen accept the modification? I understand them to consider it as inadmissible. Will they consent to insert a proviso, that nothing contained in the act shall have the effect of exonerating any person who may become bankrupt under it, from debts existing before its passage? If they do not, it is retrospective—*ex post facto*—and unconstitutional; and I, for one, cannot give it my vote. But, I understand its warmest advocates would not listen to such a proposal. Indeed, the allusion on yesterday of the gentleman from Maryland to the difficulties and embarrassments among the merchants having resulted from the embargo and restrictive systems, proves but too clearly that we are now legislating rather for events that are past, than for those that are in prospect. This principle of the bill, then, is likewise considered as essential by its friends, and as furnishing an insuperable obstacle to its enemies. Finally, will gentlemen consent to modify that provision which enables two-thirds of the creditors by their vote to release the interest of the other third—which enables one man to release the debt of another without his assent? This, like the other schemes which a disposition to conciliate the mercantile interest might suggest as the basis of a compromise, is likewise considered inadmissible.

Thus situated—with the friends of the bill strenuous in maintaining certain principles, without which they would cease to support it, while those very provisions form an insuperable objection to others—what hope can there be of so shaping it as to make it palatable to the variety of tastes in this Committee? To me it appears palpable, that if the bill is to pass at all, it must pass in its present shape. And, as I am decidedly opposed to its principles, I shall vote in favor of the motion of my colleague, and thus endeavor to put an end to an unprofitable labor that may last for weeks, and perhaps months, without the possibility of an accommodation, and without, after all, passing any bill whatever.

We were told, Mr. Chairman, in the opening of this matter, by the gentleman from Pennsylvania, (Mr. HOPKINSON,) that the provision of the Constitution was imperative in relation to a bankrupt bill, and that we were constitutionally bound to enact one. I am happy to find, however, from the explanation of his colleague, (Mr. SERGEANT,) that we are not to understand this posi-

tion so broadly as the gentleman from Massachusetts naturally apprehended. It seems that we are only to consider it as a Constitutional injunction to pass a bankrupt bill whenever it shall be necessary, or the state of society shall require it. If this be all, we are happily absolved from a Constitutional discussion, and the question resolves itself, as we at first conceived it, into a question of expediency.

We have been told, too, that this phrase in the Constitution having been used in reference to the British laws, and those laws having confined its provisions to traders, and provided that the debtors should be discharged from all prior debts upon obtaining a certificate, we must understand the Constitution as having contemplated similar provisions. The argument proves too much. If the terms of the Constitution compel us to adopt any particular provisions of the British bankrupt system, we are equally compelled to adopt all; since it is impossible from its context to discern which it directs us to pursue and which to reject; and thus, under this instrument, the Congress of the United States would be reduced to the humble office of re-enacting in terms the provisions of the British statutes, so fortunately provided for us by our British progenitors. But the truth is, that the Constitution uses this term without reference to a particular system, but in relation to systems of bankruptcy generally; some of which contain a principle abrogating the bankrupt's debts while others do not; and some doubtless embracing more classes of the community than others have deemed it expedient to comprehend.

In truth, however, on this latter point it would be scarcely important to raise a Constitutional question. All agree that expediency forbids an attempt to embrace in the provisions of the bankrupt law the husbandman, the planter, and mechanic. No one would deprecate such an attempt more than myself. It would be impracticable. It is not suited to the character of those classes of the people. They must change the whole course of their habits and manners before they could bear the operation of such a system. To them it would be inexpressibly inconvenient and oppressive. But the inexpediency of this extension to them offers no answer to the objection to the bill that it is partial in applying only to merchants. It is of the essence of that objection, that the law cannot be so framed as to avoid being either partial in its provisions or oppressive in its operation. Either of these objections ought to be fatal and conclusive.

As to the clause which exonerates the bankrupt from his debts, there is the less reason for presuming such a provision implied in the terms of the Constitution, as the principle has not been universal in bankrupt laws. These laws existed in England one hundred years before it found its way into them, and unless my memory deceives me it never formed a part of the French law, until since the adoption of the federal Constitution. This body is, therefore, I presume, untrammelled, as to the character of the law which it shall pass, and it will be my chief object to show



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that, with this favorite principle in the bill, it is inexpedient that it should become a law.

It is this clause of the bill, Mr. Chairman, which I regard with most hostility. It contains a flagrant invasion of private right. It expressly impairs the obligation of contracts, by absolving a man from a debt which he never has discharged. In doing this we are infringing one of the first great principles of natural justice—a principle interwoven with all our moral feelings, and which forms indeed one of the most marked distinctions between a republic and a despotism. To this principle the Constitution, too, has set its seal. It inhibits to the States the power "to pass any law impairing the obligation of contracts;" and that power which has been so carefully withheld from the State sovereignties of this confederacy, is now attempted to be exercised by us. Can we be disposed lightly to violate this great principle of justice? Can we disregard the moral sentiment and the sanction of the Constitution, unless a great and imperious necessity demands of us to act? I will not stop to inquire whether we have constitutionally a right to enact laws impairing obligations, any more than the States. But this I will venture to assert, that before we encroach upon this forbidden ground, and violate what has been held sacred by the Constitution, the necessity must be great and imperious; the advantages must be certain and important, not speculative and trivial.

We are told, indeed, that the debts of bankrupts are not to be extinguished, unless a majority of creditors, in number and in value so decide. But the invasion of private right is not less conspicuous, since their decision will not only operate to extinguish their own debts, which they have a right to release, but the debts of dissenting creditors, over which they ought to have no control.

Let us then dispassionately examine, Mr. Chairman, whether the evils complained of are as great, and the benefits anticipated as extensive, as the zealous advocates of the bill appear to contemplate.

Perhaps there is not a fairer mode of deciding on the effects of a system, than to refer to the opinions of able men, who have witnessed its practical operation. I recollect to have heard within a few days past one of the most enlightened and distinguished men of the present Congress (a member of the other House) state that, in conversation with Lord Chancellor Eldon, and perhaps, also, with the then Chief Justice of the King's Bench, they had acknowledged that, upon a candid review of the effects of the bankrupt system in Great Britain, it was extremely problematical whether it did most harm or good. If we confide in these opinions, there is certainly no such decisive advantages to be derived from the system as to induce us to overthrow a principle that we are disposed to regard as sacred. But we have still further evidence afforded, at least as to the opinion of this nation, on the subject of the bankrupt system, by the conduct of the States. From 1776 to 1788 they had the sole

power of passing bankrupt laws. Since that period they seem to have conceived that they possessed powers on the subject; but only two have ever passed a law exonerating the debtor from his debts on becoming insolvent and surrendering his property. And shall we pay no regard to this strong indication of national feeling on the subject of bankrupt systems? In all Governments, in our own particularly, we should scrupulously attend to the national feeling in relation to the laws that are to govern the nation. We should fit the coat to the shoulders for which it is intended; if we do not, it may chafe and fret us, but never will be of service.

There is, however, a yet stronger indication of national sentiment on the subject of bankrupt laws, and a farther evidence of their being found inconvenient and pernicious upon experiment. In the year 1800 a bankrupt bill was passed, and limited to a period of five years. In the year 1803 a motion was made for its repeal. I beg gentlemen to reflect on the state of things at that time. Parties were then in complete array against each other. This had been one of the last measures of the Federal Administration. Never, since the commencement of this Government, was more to have been expected from the influence of hostile party feelings upon the decision of the legislative body. But, on this occasion, those who were in the habit of daily and animated contention, with one consent suspended their hostilities, and turned their arms against this common enemy—the bankrupt system—which they seem to have looked upon as some hideous monster. "The lion and the lamb" laid down together; the Griswolds and the Danas, the Randolphs and the Macons, of that day, were for once found in conjunction. They were not satisfied to permit the act to expire by its own limitation, but they determined to strike it from the code. The repeal passed almost by acclamation; ninety-nine votes being in favor, and only thirteen against it. Here, then, I conceive, was an explicit declaration of national sentiment, and of the opinion of practical and able men, on an experiment, of the effects of which they had themselves been the witnesses. Will gentlemen be deaf to the lessons of experience—the opinions of those who saw the operation of the system, and the plain indications of public sentiment? The convictions of the nation have been further manifested by subsequent events. Fifteen years have elapsed since the repeal of the bankrupt law—years more disastrous to the merchant than any former period. Within that time they had to encounter not only the common risks of commerce, but the extraordinary hazards of an irregular state of the world. Orders in Council, Berlin and Milan decrees, embargo, non-intercourse, and restriction, seemed to baffle their mercantile calculation, and to threaten them with ruin. Yet, during all this period, no bankrupt law has had existence; and now, in these halcyon days, the gentleman from Pennsylvania tells us the fairest occasion is offered for this experiment; now, when all the fair risks of the mer-

chant may be safely insured against, and the commercial speculator alone is in danger of ruin.

Sir, it seems to me that the advocates for a system of bankruptcy are misled by two very common, but very erroneous principles of action—a wish to prevent inevitable evils, and a desire to encourage everything. Nothing can be more groundless than the hope that, by our legislation, we can prevent the misfortunes incident to our nature and our pursuits. In taking a burden from one shoulder it falls on another, and, like bad tinkers, in stopping one hole we make two. So, too, we must encourage every thing: the manufacturer must be encouraged by duties; the merchant must be stimulated to mercantile enterprise by sponging his debts if he fails. And on whom do these encouragements operate as a burden? On the farmer and the planter. They alone ask for nothing but to be permitted in peace to follow their plough, and to make a livelihood by their hard and honest labors. On them falls the burden of encouraging manufactures; and on them, too, will fall, as I expect to show, no little evil from this bankrupt system.

Sir, it has been said that you must hold out some safety to the merchant—some assurance of protection, or he will not venture; a stimulus is wanting to excite to mercantile enterprise; without it our commerce must languish, and every class of society will feel the pernicious effect. Sir, no such stimulus is wanting. Can gentlemen really believe that the commercial enterprise of this country wants a stimulus, when they cast their eyes to the events of the last twelve years; when they see the merchants fearlessly running the gauntlet through the Berlin and Milan decrees and British Orders in Council, enriching the country, as we have been told, and of course enriching themselves? That such has been the general result, would seem fairly inferrible from a fact, which I have heard stated on good authority, that most of the insurance offices have made large profits in the course of their business. There would seem, therefore, no fair reason for believing any stimulus necessary to mercantile enterprise. Let us see, however, how this bankrupt system will operate on the mercantile class, and on the other classes of the community.

As to the merchants, as some sensibility has been manifested by the gentleman from Maryland in relation to their character, I beg leave, before I enter upon this part of the subject, to disavow any disposition to reflect upon them as a class in society. My daily intercourse with that gentleman, and with another, to whose purity and honorable feelings it gives me pleasure to pay the tribute of my respect, would of itself have forbidden the indulgence of any sentiment of prejudice towards that respectable body of men. But after all they are but men. There are some good and some bad among them; and unless it can be shown (and I am sure even the gentleman from Maryland will not attempt it,) that there is something so refining and purifying in mercantile pursuits, as to cleanse us of the impurity of our nature—unless it can be shown

that merchants are not comprehended in the meaning of that book which the gentleman is so fond of quoting, where it declares to us that the heart of man is prone to evil and most desperately wicked, I must be permitted to assume that there are many fraudulent persons engaged in trade. Sir, I speak it under authority—the authority of the advocates of the bill. They tell us that this law is made for the creditor; to prevent the numerous and infamous frauds that daily occur under the insolvent laws. Now, as this law is to operate only on merchants, it is manifest that the numerous frauds spoken of must, at least to a very important extent, be frauds of the mercantile community.

Assuming, then, that there is not less disposition among insolvent merchants than among other insolvents to commit frauds, let us see what will be the operation of this law on the honest and on the dishonest.

To discover the effect upon the honest merchant, compare the course of things under the insolvent laws of the country with that which must take place under this act. At present he enjoys the common rights of his fellow-citizens—the common law of the land. But by this act he finds himself stripped of these privileges; he is treated like a culprit; his home is broken open; even his wife is, under heavy penalties, compelled to disclose those confidential communications which the laws of our land consider as sacred; and he finds himself branded on the forehead, and classed forever with a set of men who, from the frauds too frequently practised under the system, are looked upon with suspicion and distrust. He will postpone as long as possible these dire evils. For what is his compensation? A certificate, and the extinction of his debts; an extinction of no value to him, because he will have honor enough to pay them, should fortune once more smile on his exertions. Gentlemen have enlarged upon these provisions with a view to show that they give no privilege to the debtor. They have spoken of the harsh character of the law. I agree with them. It is horse medicine I admit. It confers no privilege on the honest merchant I acknowledge; on him it operates only as an oppression.

But how is it with the knave? Under the insolvent laws, whatever property he acquires, after his discharge, is liable to his debts. If, then, he makes a fraudulent conveyance of real estate, or fraudulent transfer of personal property, whenever he takes it back, it is again liable; and as, by leaving it in the hands of an accomplice, it may be endangered by his frauds or by liability for his debts, a sort of necessity exists for again assuming the ownership; whereby it becomes subjected to the debts he had contracted before insolvency.

Consider his situation under this act. He commences business (as I understand is frequently the case) almost entirely upon borrowed capital. He perseveres for some time in a course of punctuality and industry; extends his credit to a large amount; gradually secures to himself a hand-

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some fortune by fraudulent investments and deposits with convenient friends; and then breaks and sponges his debts. Now he begins to draw, by degrees, these funds again into his hands, and his growing wealth is attributed to returning good fortune. What is it to a man of this character, that he has been compelled to endure the severities of this act, when, at the close of the transaction, he pockets one hundred thousand dollars, and lives at his ease the balance of his days? Sir, I cannot resist the conviction, that this act is harsh and oppressive to the upright, and holds out temptations to the knave, of which he will not fail to avail himself. It is a conviction, neither prejudiced nor visionary. The sober writings of the jurist, and the pen of the satirist, alike bear testimony to the innumerable frauds of bankrupts under this system. The laws themselves attest them. Why are they marked with such severity? I speak, sir, of the bloody code of the British bankrupt law. It has been properly referred to on this occasion. Gentlemen tell us we should yield to the experience of that nation in relation to the necessity of the system. Why not be governed by their experience with respect to the punishments essential to its support? And what is that system? If the bankrupt conceals his effects, hang him! If he makes a false disclosure, hang him! If he makes fraudulent conveyances, hang him! And thus, throughout the code, the frauds which a century has been gradually developing, have been attempted to be restrained by severe, yet, perhaps, unavoidable punishments. Yes, sir, for if we have a system which holds out such temptations to fraud, the punishments must be severe. You have endeavored to avoid this evil. The punishments in the bill are moderate indeed; but you attempt to bind Samson with a packthread. What, to a man of desperate character, will be the punishment of a year's imprisonment, compared with the enjoyment of an ample fortune, with the power of running away from his character to some remote part of this extensive continent? Nothing!

Sir, it has been said, by the gentleman who introduced this subject to the Committee, that a bankrupt law operated as an insurance, protecting the unfortunate debtor, in some measure, from the consequences of his losses. It is true, sir; it is an insurance, but without any of the ordinary principles of the association. It is compulsory, unequal and unjust, not voluntary, equitable and fair. It is an insurance neither according to our interests or our capacities, but governed by the arbitrary dominion of chance. Let me suppose a case. With a capital of ten thousand dollars, I become the creditor of a brother merchant to the amount of half that sum; the gentleman from Maryland, worth five hundred thousand, is a creditor to a like amount; our debtor fails, and I am practically his insurer to the value of half my fortune, whilst the gentleman from Maryland scarcely feels this insignificant deduction from the ample profits of his trade. Where is the justice or policy of an insurance upon such principles? If there must be an insurance

against the losses of trade, whether proceeding from misfortune or imprudence, let it rather be established on principles like those which my learned colleague has spoken of as once having had existence. Let it embrace the whole body of the merchants, and let the burden fall on every shoulder according to its ability to bear it.

Let us now see, Mr. Chairman, what will be the probable effects of this system upon the rest of the community. To my mind it will operate indirectly as a burden upon them. By this act, if a merchant owes a farmer, the insolvency of the merchant, and the certificate of his brother merchants, extinguishes the debt; but if the farmer owes the merchant, the farmer's insolvency does not extinguish the debt. This is unequal and unjust, and must operate as a burden upon the husbandman. Consider them in classes; every day extinguishing some debt from the mercantile class to the farming class; but no debt from the farming class to the mercantile class can ever be extinguished. Does it require any reasoning to show that, by this operation, the merchant must, upon the whole, be the gainers? And is not this act thus indirectly a tax upon the farmer for the benefit of the merchant?

Let us suppose (to bring the matter home to our affairs) that I have in deposit, with a merchant of Alexandria, a thousand barrels of flour, which he sells without my authority, and becomes my debtor for its amount. He becomes bankrupt, procures a certificate, and is exonerated from my demand. On the other hand, I owe to a merchant of the same place a like sum: I calculated on paying it with the fund I had accumulated, and which my unprincipled debtor had wasted. Deprived of the means of payment, I, in my turn, become insolvent; but my debt is not annulled; it is to hang upon my exertions during the balance of my days, while my debtor is absolved, and may be rioting in newly acquired or fraudulently retained wealth. I ask gentlemen who represent agricultural districts, what reply they would be prepared to give to one of their honest, plain-dealing constituents, placed in such a situation, who should make a forcible appeal to him on the injustice and inequality of this system of bankruptcy? For my own part, I know of none. I should consider myself as defenceless, though armed with all the arguments which this able debate has developed.

But we are told, sir, of the innumerable evils that follow in the train of the insolvent laws of the States, and that these evils will be remedied by the passage of a bankrupt bill. The first of these is the want of uniformity, and the gentleman from Massachusetts, (Mr. MILLS,) with the good sense which distinguishes whatever falls from him in debate, has dilated upon the evils of uncertainty and want of uniformity in commercial concerns, and has explained the unequal operation of the insolvent laws. But this want of uniformity (which, by the way, if I am not misinformed, exists even between England and Scotland, the bankrupt laws of the former having no operation in the latter) will not, cannot be pre-

vented by the passage of this bill. It is not contemplated to repeal the insolvent laws—there is an express provision in the bill declaring that they shall not be repealed, except so far as relates to those who become bankrupts under this new scheme of things. They are then to be repealed only as to the merchants, and left in full operation as to all other classes of the community. Is this uniformity? The evils of the insolvent system, which have been most zealously portrayed by every gentleman who has spoken, are to be removed only from the mercantile community, and the farmer and mechanic and country merchant are still to groan under these evils. Every exertion on the part of the friends of the bill to prove the ills of the present system only serves more strongly to fix upon their project the charge of inequality and partiality.

If it be true, as must be admitted, that the insolvent laws are a grievance and require to be assimilated to each other, it would behoove us rather to devise an insolvent system which might redress existing abuses, without attempting to introduce the principle which exonerates the bankrupt from his debt. Is it essential to the correction of the insolvent system; is it essential to its uniformity, to insist on this obnoxious principle? Is it not better to make the experiment without it, as was done in Great Britain for one hundred years, before it found a place in their bankrupt code?

But the partial repeal of the insolvent system of the States, and the partial operation of the bankrupt laws, will moreover have an oppressive and injurious effect upon certain classes of the community. I speak now particularly of the country merchant; his creditors in the seaport towns are armed with this powerful engine for the collection of their debts. This system, which has deservedly been portrayed as so harsh and unrelenting, is put into operation against him with all its severities. He on his part has his debtors. Who are they? The farmers, planters, and mechanics; men against whom he cannot use this efficacious weapon; men who are not within the bankrupt law, and to whom this decry'd insolvent system of the States will still continue to apply. Thus, while the bankrupt law is used as an instrument against him, it cannot be made use of in his favor. He is crushed by its power, while (if the representations of gentlemen are correct) his debtors will elude his grasp by the delusions of the insolvent system.\*

Another evil which has been touched upon by the gentleman from Pennsylvania, (Mr. HOPKINSON,) is the supposed disposition of debtors,

under the present insolvent laws, to pay the foreign creditor in preference to the home creditor; an evil which he supposes will be remedied by this bill. The gentleman admits I do not misconceive him. To my mind, sir, this idea is a delusion; probabilities are just the reverse of what he has supposed. Let us examine the subject a little nearer.

Under the insolvent law the insolvent debtor knows that all the property he acquires after the oath of insolvency is liable for his debts; it is then his interest to pay off those immediately around him, because they are incessant spies upon his conduct and his affairs; if they are not paid off, he may expect to be pressed by them whenever his circumstances improve; every dollar he acquires they have their eyes upon. But the foreign creditor, once baffled by an insolvent oath, is not apt to be so troublesome; the debtor does not find it therefore necessary to pay him as soon as those who, from their proximity, are more likely to press their just and unsatisfied demands. This, sir, is not mere speculation; instances have fallen under my own observation that satisfy me that the usual course of things is such as I have represented.

Such, sir, are my objections to this system of bankruptcy: objections chiefly growing out of that clause which exonerates the bankrupt from his debts. With every disposition to yield to the mercantile community an accommodation which they solicit, I cannot consent to the system so long as it contains this feature; and the passage of any bankrupt bill, without it appears entirely hopeless. I will conclude by expressing the hope that this body will not give its sanction to a law that oppresses the honorable dealer, while it facilitates the iniquitous schemes of the dishonest; a law that infringes private rights, impairs private contracts, breaks down the great safeguards of the law, sets up new tribunals unknown to the Constitution, with powers the most arbitrary and oppressive, and leads by its great temptations to the commission of innumerable frauds.

Mr. STORRS, of New York, said, after the able exposition which has been made to this Committee by gentlemen who have preceded me in this debate, not only of the particular details of this bill, but of the general policy and necessity of adopting this measure, I can scarcely hope to acquire their patient attention. Indeed, sir, I should not have occupied any of their time did I not believe that, as well the peculiar state of our commercial interest as the particular provisions of this bill, have by some of the gentlemen who have warmly opposed it, been greatly misapprehended. The only question which is fairly presented by the motion of the honorable gentleman from Virginia, (Mr. TYLER,) to strike out the first section of the bill, is the expediency of legislating at all on the subject. The details of the bill may be hereafter so modified or improved as to make it acceptable to all. I heard with much regret and anxiety the remarks of the honorable gentleman who made this motion, and his colleague, (Mr. PINDALL,) for the course of their ar-

\* This unequal operation is peculiarly conspicuous, when we reflect that, by the bankrupt law, the lands of the country merchant (and most of them possess some real property) will be seized by the commissioners for his debts to the merchants of the seaports, while in some States the lands of his country customers are not liable to him except in a mode which bears no comparison with the prompt measures of the bankrupt law.

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gument seemed to have received its impulse either from strong and alarming jealousy of the mercantile interest of the nation, or from fears that this measure conferred some peculiar privileges on one portion of the community, to the exclusion of the rest. It is at all times an ungracious task to draw invidious distinctions between the merits of particular classes of citizens; nor should I seek to repel the insinuations which have been thrown out in the debate against the mercantile character of the nation, had not my own observation convinced me of the injustice of those imputations. They have no interest distinct from the rest of the community, and whatever doctrines are calculated to array in hostility against each other the different classes of our national interests, deserve no sanction or encouragement in this place. Though gentlemen may deem them harmless here, the effect of their adoption will be felt and deplored elsewhere. With whatever sincerity it may be pressed in the warmth of debate, and however honorable the feelings of duty which prompt it, yet, next to direct and open attempts at disunion, no doctrine can be urged, which, in its consequences, will prove more pernicious to our peace and prosperity, than that which teaches the agriculturists of the nation that their interest requires the discouragement of commercial men. The history of our country is little else than the history of our commerce. Most of the general powers vested in Congress by the Constitution are adapted solely to a commercial people. From what class of our citizens have we derived in a great measure that characteristic of national enterprise which highly distinguishes us above all other nations, and of which we so much and so justly boast? For what but the safety of our "ships and vessels" were our ports locked up for years by an embargo? For the preservation of what "essential sources of wealth and strength" was the restrictive system adopted and enforced? For the security and protection of what interests were millions of treasure exhausted, thousands of lives sacrificed, our frontiers and maritime towns desolated through a fierce and vindictive contest of arms? When, before this debate, was the time when gentlemen thought our seamen were entitled to no protection against the violent policy of other nations? That our honor required no exertion of the national strength for the security of our merchants against the rapacious edicts of European potentates? For what does one of our gallant fleet even now sweep along the shores of Africa, displaying our "star-spangled banner" to the Moorish infidels of Barbary? It is, sir, to teach them the instructive lesson that our commercial prosperity and security is identified with our national honor. What, then, should have produced at this day this strange revolution of doctrine? Is our commerce more secure or more prosperous? Do commercial men suffer under no embarrassments which should recommend them to the favorable notice, to the justice, and, if gentlemen please, to the kindness of the national councils? Is not the preservation of mer-

cantile credit the basis on which all commercial faith and prosperity is founded? For in reviewing the effects which the embargo, the restrictive system, the war, nay, our late convention with Great Britain produced, and which yet operate on the agricultural prosperity of the country, the most cursory observation must have deeply impressed on the public mind at least one important truth, that in the same proportion that our commerce has been depressed and embarrassed, in the same degree has the tide of ruin been pressed back to the primary source of our wealth, the agricultural industry of the nation. We have not yet recovered from the extraordinary state of things which has existed in the world for the last ten years. It cannot be denied that the policy which our Government deemed it proper to pursue has largely, though incidentally, contributed to produce those commercial embarrassments which require the necessity of now adopting some general system of liberation to the unfortunate, and providing hereafter for the better security of creditors. Our merchants might, therefore, fairly expect that we should more readily listen to their complaints and more cheerfully correct the evils under which they suffer.

The honorable gentleman from Virginia (Mr. TUCKER) has told us, that the agriculturist forms the only class in the nation which never petitions for support or favor from the General Government; that, while our tables are loaded down with memorials from merchants and manufacturers, the farmer never asks the national arm to be extended for his peculiar relief. This remark, emanating from that section of the country represented by the honorable gentleman, indeed, surprised me. For, in our Constitution itself, the protection of one of the most extensive agricultural interests of the nation is displayed in some of its most prominent and remarkable features. The provision for the re-delivery of fugitives from the service of their masters, and the prohibitions which it imposes on the States, on a point connected with personal liberty, contains a valuable security of one species of property existing among us, indispensable to its protection. But a few days have passed since the House was engaged on the bill, now sent to the Senate, concerning fugitives from service, reported by the colleague of the honorable gentleman. It was, on that occasion, urged that, in the fair and liberal discharge of our duty, we were required to give, by every legislative means within our power, complete efficacy to this provision of the Constitution; that it was justly expected by the slaveholding States that Congress should interpose its authority, and protect the agricultural interests of the South in the enjoyment of that species of property which was thus recognised and which the national faith was pledged to preserve. The appeal was not made in vain. The liberality manifested on that bill by gentlemen representing commercial States, was such as claimed some sympathy and reciprocity of feeling for their own interests and sufferings. It was justly hoped that they would have found equal liberality of senti-

ment from gentlemen more exclusively representing the agricultural interest of the South. I would further ask the attention of the Committee to another part of the Constitution; the rule which fixes the ratio of representation in this body. Can gentlemen discover nothing here which was designed to confer peculiar, and such is the condition of many of the States that I might add exclusive, privileges on the agricultural interest of particular sections of the Union? The history of our Constitution declares the causes which produced these concessions of power. I will not say they were extorted, but they were yielded as a sacrifice to the Union, to the future harmony and prosperity of the country. The consideration that these distinguished privileges have been uninterruptedly enjoyed, and their effect on the interest of the Southern States deeply felt and realized, should have allayed the excitement of those jealousies which can only be pernicious to the general welfare. It was also foreseen by the framers of our Government, that the time would arrive when other interests would require the establishment of a uniform system of bankruptcy. All commercial nations had experienced the necessity of adopting some regulations on that subject. Much as even the late Emperor of France affected to despise the mercantile character of the British nation, yet he incorporated into the commercial code a complete system of bankruptcy. Although the foreign commerce of France was annihilated, it was found indispensable to the preservation of all mercantile credit, and the security of her internal trade, that some system should be established; and it is but a just tribute to this part of the code, when I say that, in my judgment it was more perfect in its general provisions, more just towards creditors, and more humane towards honest debtors, and better calculated for the suppression of fraud and the encouragement of integrity, than any other which has come under my observation. No one will suspect that this system was introduced from any predilections which were entertained by this potentate for mercantile professions. I do not agree with gentlemen, that the exercise of this power should longer continue to be intrusted to State regulation. In this country, it would have been unwise, for causes which now exist, to confide these systems to the discretion of the State Legislatures. Our dear-bought experience has already proved the wisdom and necessity of vesting this power in the General Government. It is a power exclusively vested in Congress, for no system could be uniform or useful, which depended, for its permanency or character, upon the territorial jurisdiction or caprice of twenty different State Legislatures. It was from the view of evils of this nature, and arising from these sources, that the first propositions were adopted under the Confederation which led to the formation of our present Constitution. The first resolution introduced into the Old Congress, with a view to the better organization of the Government, was, by Mr. Witherspoon, of New Jersey, on the 3d day of July, 1781, and is in

these words: "that it is indispensably necessary 'that the United States, in Congress assembled, 'should be vested with a right of superintending 'the commercial regulations of every State, that 'none may take place that shall be partial or 'contrary to the common interest.'" It is true, as the honorable gentleman from Virginia has said, that nothing imperative in the Constitution requires us to exercise this power at any time. It was, however, like many other powers, intrusted to the integrity, as well as the wisdom of Congress; and it was presumed that when evils like those under which commercial men now suffer should spring up among them and render the interposition of Congress necessary, that a sense of duty to the nation would alone prompt the application of the proper Constitutional remedy. Before particularly noticing the first section of this bill, I would ask the attention of the Committee to the nature of some of those evils under which creditors throughout the nation have largely suffered. A creditor of the Southern States, on pursuing his Northern debtor, finds in Massachusetts that an attachment has dispossessed him of his whole estate for the benefit of some other individual creditor more vigilant. In New York, a judgment voluntarily confessed and perfected, has acquired preference on his real estate, to the exclusion of all others, or an insolvent act, of which he had never heard, has discharged him from all responsibility. In Virginia his landed estate is for all useful remedial purposes exempt from charges for the payment of his debts. These partial, and, in many cases, unjust, municipal regulations will be prostrated, and the creditor may rest in security that his interests will everywhere find impartial protection in the application of the remedy which this bill provides. It is worthy the consideration of gentlemen from the South to consider the course of trade between them and the Northern States. While they remain almost exclusively agricultural, and the North continues commercial, the natural consequences of their intercourse is the accumulation of extensive balances in favor of the Southern States. To them, therefore, the preservation of the mercantile credit of the Northern seaports is of vital importance to their interests, and it is well worth the reflection of gentlemen to consider to what degree this bill secures to them the fair participation of the estates of their Northern debtors; a considerable portion of these consist, too, of the shipping merchants; a class of commercial men, whose prosperity is peculiarly dependant on accident, and who are particularly exposed to the temptations of speculations in foreign markets.

A careful examination of the provisions of the measure now before us, will satisfy gentlemen that it does not, as has been suggested, encourage systems of gambling speculations, or promise indemnity against the consequences of hazardous adventures; nor do the insurance offices offer any security against the evils which exist. Gentlemen have probably been misinformed, also, when they suppose that the insurance offices of the sea-



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ports have accumulated large fortunes. In that State, which I have the honor to represent, many of them, though discreetly managed, have become bankrupt; and I believe that a public statute provides specially for the insolvency of these particular institutions. Though it may incidentally afford relief to many unfortunate, though honest men, yet such will not long resort to the remedies which it offers for their emancipation from misfortune. The acts of bankruptcy enumerated in the first section of the bill, embraces a different class of merchants. The power of this measure is directed chiefly against collusive transfers of property to favored or fictitious creditors; the dishonest embezzlement and concealment of effects and fraudulent evasions of punctuality and responsibility. These evils can only be corrected, and the success of these practices frustrated by an application of the power created by this bill. The greater portion of the subjects of this law, will never consider it as conferring on them any peculiar or extraordinary or enviable privileges. The honorable gentleman from Virginia (Mr. TYLER) expressed an opinion that if any benefits were to result from the measure, impartiality demanded of us that the farmer should not be excluded from participating in them with mercantile men. I am somewhat at a loss to discover precisely, in what part of this bill the farmer is excluded from its real benefits. If the honorable gentleman intended that we should understand his objection to be, that this class of community are expressly exempted from becoming subjects of bankruptcy, and the farms not made subject to the summary process which is applied to the effects of the merchant, I must differ with him in my estimation of the benefits of this exemption. As a debtor, his true interests and the nature of his property forbid the application of the unusual remedy which this measure provides; as a creditor, he is not excluded from his just share of the bankrupt's estate, and as the merchant often becomes his debtor in the purchase of his produce, all the additional securities of this bill are extended to him. In neither relation, therefore, are the privileges which it is supposed to create denied to the agricultural interests of the country. At this late period of the debate, I will occupy the time of the Committee no longer. Believing, as I do, that the measure is required from us by a just and impartial regard to one of the most important national interests; that it is fraught with incalculable benefit to every class of community, and that it cannot justly be viewed with jealousy by any; I hope that its passage will not be defeated by the success of the motion to strike out the first section of the bill.

Mr. WILLIAMS, of Connecticut, apologized for rising at this stage of the debate, when the question was called for; and he felt the more reluctance when he found the gentleman from Virginia, when up, (Mr. TUCKER,) thought it necessary for him to request their indulgence. That the question before the Committee embraced a subject of so much importance that he would ask the attention of the Committee while he raised

his voice, feeble as it was, against the motion then under consideration.

That there were difficulties, serious difficulties, existing in relation to the subject under consideration, he was ready to admit—that there were objections of weight to the bill, he should not deny. This was to be expected from a subject of such magnitude and extent; but this formed no reason, in his mind, why it should not be considered. He would not pledge himself as to the vote he would give upon the final passage of the bill, but he would not agree to the motion now pending, because it seemed to deny an inquiry into a subject all important to many in the community. And although the subject seemed to be complicated; although the details are long, and the sections numerous, the objects of the bill are few and simple. They are, first, to make provision for the creditors of the bankrupt, by an equal distribution of all his property; and then to grant some relief to the bankrupt himself. As to the first, the equal distribution of the property of a man who has become unable to pay all his creditors, it would seem to be an object worthy the consideration of the Legislature.

Bankruptcy ordinarily, although not necessarily, supposes the party to be unable to pay all his creditors. What in such a case, is the most proper mode of distributing the property he may possess among those to whom he is indebted? It can be done only by suffering the debtor to make this distribution himself, or permitting the creditors to scramble for the property, or by taking it into the hands of the law, that all might share alike, in proportion to their debts. The gentleman from Virginia (Mr. TUCKER) says, if the debtor be honest, he will himself make a fair distribution of his property, and if he is not honest, you ought not to provide for him. But is even an honest man the best judge in his own cause? May not an honest man have partialities to gratify, and friends and relations who may be his creditors, whom he would feel as if he must prefer? In cases where the wisdom of the Legislature might hesitate, and where conflicting claims exist which might require a chancellor to decide, will you leave it to the party himself? Besides, at a time when circumstances, arising frequently from unexpected embarrassments in his affairs, have led the party almost to a state of distraction, can it be supposed that he will, even with his friends about him, sit down, and calmly and coolly make the most just and equitable distribution of his property among his creditors? Will you then leave his property to be taken upon legal process by his creditors, giving the preference to him who uses what is called legal diligence? The consequence of this will be, that while some are paid, others are unpaid—while some get all their debts, others get nothing—that the wary, the suspicious, and sometimes the malicious, absorb the whole property of the unfortunate debtor in the payment of their own debts, and the attending expenses, while the distant creditors—the unsuspecting creditors, and those least able to protect themselves, are left without any part of the estate. Is

it not, then, vastly better to attempt to make an equal distribution of the property? In case of the death of a person who is insolvent, the laws of most of the States have provided that the property shall be equally divided among his creditors. In the case of this, the civil death of the merchant, is not the reason equally strong, equally forcible?

The other object of the bill is to relieve the party who has thus delivered up his property (upon certain terms) from any further liability to those creditors. And in fair cases is not this equally laudable? Has not a principle of this sort been recognised in all commercial countries? It is well known to exist in England, and it is agreed that, with certain modifications, it is known in France, and the principle is recognised in every insolvent law of the States. It would, therefore, seem to be founded upon principles of justice. But it is said you ought not to discharge the debt, and it seems to be supposed you are taking from one man his property, and giving it to another; whereas, in fact, you are only taking from the creditor a right to imprison his debtor for life, and a right to snatch away the bread which he may have provided for his children—a right which can be of no value to the creditor, but which may be productive of infinite mischief to the debtor; a right which, in a fair case, no respectable man would wish to exercise, and which, therefore, he would willingly resign. Can this right be of any service to the creditor, except to gratify resentments? Have gentlemen ever known an instance where a debtor, having been stripped of all his property, and then suffered to remain in constant dread of imprisonment, and of having his earnings taken from him, has paid the debts which thus hung over him, or had even the heart to make an effort for that purpose? If not, of what value is such a right to his creditor? But it is said you are giving a privilege to these debtors. And what is this privilege? Is it one which gentlemen would themselves be willing to receive with its burdens? A privilege of having their houses broken open, their property, and books, and papers seized, and their wives compelled to be witnesses against them. Would gentlemen consent that such privileges should be extended to all the members of the community? It has indeed been complained of, that clauses so harsh were in this bill, and yet we are told of the privileges conferred by this act. As some compensation for this, it is indeed further provided that after the bankrupt shall have delivered up all his property, and made a fair disclosure of his circumstances; if the commissioners will certify that he has made a fair disclosure, and conformed to the requirements of this act; and if two-thirds in number and value of the creditors will consent, he shall be discharged from his debts.

If this be a privilege, it is one dearly earned; and if it be a privilege, accompanied by such sacrifices as gentlemen would not require of other persons than merchants, surely it ought not to be objected that it does not extend to other persons.

But if it is to be considered a privilege, is not the peculiar situation of the merchant, as it respects the Government, such as demands it? He is the collector of all, or nearly all, your revenue; in the course of this business he must, as was remarked by the gentleman from Maryland, necessarily become responsible for the obligations of others to the Government, and not unfrequently has to sacrifice his own property to discharge them. Again, the measures of the Government, in relation to your concerns with foreign nations, are more peculiarly felt by him. Do you lay an embargo, his business is suspended; do you pass a non-intercourse or non-importation act, he must seek new channels of commerce; do you declare war, his property upon the ocean becomes the prey of the enemy. It is said, indeed, he may insure; he may or he may not have made insurance; if he has, the underwriter has only taken his risk, and may, in his turn, require the same aid from the Government.

But the gentleman last up from Virginia says, we are not now in danger of war. But will gentlemen say that we can hope always to remain at peace, or that we are to wait for the moment when war commences? If Congress were upon the question of declaring war, would they suffer their deliberations to be interrupted by an attempt to pass a bankrupt law? No, sir, it is only in a time of peace that a law of this magnitude can receive the attention it demands.

But it is not a privilege granted to an individual for his own sake, or even for the sake of his family; but it is a privilege, rather a right, of the society of which he is a member, who has claims upon his services and upon his talents, which will probably be entirely lost, if, after your laws have taken from him all that he has, they shall still subject him to be answerable for the claims of his creditors.

It is said, let the States pass their own insolvent laws. But the individual States can make no uniform system of bankruptcy. Their laws will be as various as the States. Merchants in foreign countries, and even in different States, cannot know what the laws of the respective States are; and consequently under what circumstances they might expect their debts discharged; and should they attempt to search them out, the laws would change during the time they spent in this pursuit; indeed, the knowledge of them would require the study of a life. Again, it is a question pending before the Supreme Court, now sitting in this city, whether a State can constitutionally pass an insolvent law, the power to establish an uniform system having been expressly delegated to Congress; consequently, all those who, in the various States, have conformed to those laws, are now wholly uncertain with respect to the security they expected to derive under them.

But if the States do possess the power, so far as regards the citizens of their own States, it will not be regarded by the courts of another State as against their citizens; and, consequently, all the benefit that such laws are to those who

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owe debts in other States is, that it makes the jail limits co-extensive with the boundaries of the State; and if the insolvent leaves his own State, he may be subject to an arrest, notwithstanding his supposed protection. These are some of the reasons why Congress should exercise this power, if it is to be exercised at all, rather than the States; and as Congress have and are exercising all the powers expressly given them by the 8th section of the 1st article of the Constitution, (except that relating to weights and measures,) it seems as if this subject was of that kind as peculiarly to require their interposition, if indeed there ought to be any laws upon the subject, as in no other way can there be that uniform system contemplated by the framers of the Constitution.

It is, however, said, that a system of this kind will encourage the bold speculator; but when it is recollected, that two-thirds in number and value of his creditors must give their consent to the discharge, it will be a check sufficient to restrain the bold speculator; and if we compare the merchant of Great Britain, who acts under this system, with the American, who does not, it is believed that it will be found, that there is not less caution nor more enterprise and speculation in the former than in the latter. When, therefore, the objects of this bill were so important, it was to be hoped that it would not be rejected in the manner proposed, by striking out the first section.

FRIDAY, February 20.

Mr. HUGH NELSON, from the Committee on the Judiciary, to which was referred the bill from the Senate, entitled "An act to divide the State of Pennsylvania into two judicial districts," reported the same without amendment, and the bill was committed to a Committee of the Whole.

Mr. HUGH NELSON, from the same committee, reported a bill to establish a judicial district in Virginia, west of the Alleghany mountain; which was read twice, and committed to a Committee of the Whole.

Mr. HUGH NELSON also reported a bill for altering the time for holding the district court for the district of Virginia; which was read twice, and ordered to be engrossed and read a third time.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a return of the arms and military stores furnished to the respective States, under the act of 1808, for arming the militia of the United States, in obedience to a resolution of the 8th ultimo; which was ordered to lie on the table.

On motion of Mr. FORSYTH, a committee was appointed to inquire into the expediency of changing the mode by which the Army of the United States is subsisted, with leave to report by bill or otherwise; and Mr. FORSYTH, Mr. JOHNSON, of Kentucky, Mr. HARRISON, Mr. MERCER, and Mr. PETER, were appointed the committee.

The bill making the annual appropriation for the support of the Navy passed through a Committee of the Whole; and it was ordered to be engrossed for a third reading.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting, in obedience to a resolution of the House of the 11th December last, an account of the sums awarded by the Commissioner under the act of the 9th April, 1816, for the payment for the property lost during the late war, and the act of the 3d March, 1817, supplementary thereto, describing the species of property paid for, with sundry documents in relation to the subject embraced by the resolution; which were ordered to lie on the table.

#### BANKRUPT BILL.

The House then again went into a Committee of the Whole on the Bankrupt bill, the question being on striking out the first section.

Mr. MASON, of Massachusetts, rose and requested to submit a few observations to the consideration of the Committee. His mind had received a deep impression from the importance of the subject, and he represented a portion of the Union deeply interested in the passage of some act of the Government.

The bill now before the Committee is in consequence of memorials from respectable bodies of merchants, inhabiting the four great cities upon the Atlantic coast, and by adverting to those memorials, you find the most respectable signatures, and an uncommon unanimity of sentiment. I regret much the jealousies and shades of political hostility which have manifested themselves in the course of the debate to this class of men. They are citizens, and not foreigners, inhabiting different apartments under the same roof, members of the same family, and dependent upon each other for mutual prosperity, united together with variant interests, to promote which a spirit of conciliation and compromise is at all times necessary; and such is the spirit of our Constitution. It is not contended they are perfect; the bill upon your table is evidence that unworthy men are found among them. They are subject to human imperfections in common with the planter, the farmer, and the mechanic. They hope only they have no more than their proportion. They have not been drones in the community, but by their exertions and prosperity, while enriching themselves, they have quadrupled the wealth of their country. They hold, at different times, possession of a great portion of the active stock and merchandise, and receive and sell all the produce of the planter and agriculturist. They manage all the fiscal operations, all the banking institutions, and they are your immediate agents in receiving, collecting, and paying the impost and revenue. They state to you the nature of their trade; that it is, at all times, attended with hazard; that credit is its vital principle; that they are obliged to loan to each other their names and responsibilities in the procurement of money; and that this practice is the only one which can be adopted, and essential.

ally necessary to the collection of the imposts. The law of the United States has prescribed this mode. They are liable to losses, from misfortune, from fraud, from unforeseen and incalculable embarrassments; the frequent revolutions in politics and government, and from that necessary dependence upon each others credit and calculations. They literally embark their all upon the ocean, and oftentimes their best efforts are as uncertain as that is unsteady. They state to you the present discordant systems in some, and the want of any in others of the United States; the inefficiency in all of them, and their total inadequacy to the protection of their property.

They now ask your aid and protection, that they may have some uniform system throughout the Union; that equal justice may be administered to all of them; that they may have some control over their debtor and his conduct, when he himself has demonstrated he has no property but theirs remaining in his hands, and not a sufficiency of that to discharge their demands; that there may be no unjust preferences, and that they may have a voice in the distribution of his effects; that all may be put upon the same footing, and debts contracted upon the same moral principle, may receive the same proportion; that they may furnish inducements to the honest debtor, when in adverse circumstances, to consult his creditors, to expose his books, make known his misfortunes, and deliver up his effects. In making these requests, they are not unmindful of the principles of humanity. They do not calculate upon receiving the whole of their demands; but are willing to take their respective proportions, and give to their debtors a discharge; in doing this, it is not his immediate interest they consult, but their own, and founded, as they think, upon universal experience.

I would apply to the candor of gentlemen, and ask whether this prayer is unreasonable? Whether anything can be found therein unjust or rigorous? Some gentlemen say exclusive privileges are prayed for. Sir, the merchants ask for no exclusive privileges, unless it be a privilege to accept ten shillings, and perhaps five, for twenty, that has been paid. Neither can it be called a privilege to the debtor, unless it is considered a privilege to be stripped of his property, and left naked, helpless, and penniless, with possibly a family and children dependent upon him. They can have no objection to admit the planter, the agriculturist, and the mechanic. It cannot militate with their views; it cannot obstruct them in the accomplishment of their wishes, nor be in opposition to their interests. The fact is, the planter, the farmer, and the mechanic do not wish it. They will not accept of such a privilege. The nature of their pursuits do not require it; and they are not liable to the risks and exposure of the merchant, and accordingly we hear the honorable gentleman from Virginia saying his constituents are content with their present insolvent laws; and the honorable gentleman from Massachusetts, while he is contending for the passage of this bill in behalf of his commer-

cial constituents, is, at the same moment, protesting against the admission of his agricultural constituents to its provisions.

But the gentleman from Virginia says it will multiply crime, and seven new crimes are made under the bankrupt laws of England. Sir, the fact is, the crimes now exist, and are daily practised in society with impunity. The conduct of the fraudulent in the concealment and withholding of his property, is just as bad as the man who puts his hand in your own pocket and robs you of your money. It is to prevent these crimes by checks and punishments that this law is now asked for. They are not new, they already exist, and are created by the very principles of your insolvent laws. They are countenanced by the law, the debtor is referred to them, and his conduct is predicated upon them.

But do these evils exist? A very small attention to the insolvent laws through the States will demonstrate them. They are different in different States—no two systems are alike. It is impossible for the distant creditor to become familiar with them, or stand upon the same ground of equality with the domestic creditor. They are confined to the State, and depend altogether upon the debtor's oath; and their operation is confined solely to his application. No control is given to the creditor at any period of their process, and the debtor's effects are put beyond his reach. In some States, and unfortunately in my own, concealment and preference are effected by the aid of law, fictitious debts are created, and property is secured by attachments without affidavits, and the property changed and held beyond the control of the creditor. He has no right to be heard. It is an affair between the debtor and his friend, and judgment passes by consent and default. With the want of judgment and discretion in individual creditors, the insolvent laws tempt the honest man to become a rogue, and however upright and pure the intention in the outset, the honest debtor finally finishes under their operation with the same character, as the fraudulent debtor in the first instance. By advertising to the almost universal practice under them, it will become apparent. A young person commences trade with a small capital and with good character; with a reliance upon his friends and the purity of his conduct, he adds a credit to his principal, and trusts his adventures upon the ocean. He for a time is successful, but finally meets with those hazards that baffled his calculations, and he finds that he has not added to the sum he commenced with. By the aid of credit, and the negotiation of paper, he still continues his business, and endeavors to support his credit by meeting his demands. He is obliged to make use of evasion, and he commences this first departure from strict integrity, until he becomes so embarrassed, he is convinced he must finally fail. Still actuated by the principles of integrity, he secures his property remaining, with a view of calling a meeting of his creditors, and offering them the whole, to be distributed among them in proportion to their respective demands, provided

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they will take it and give him a discharge. He states to them his course of conduct, that it has been his misfortune, and not his fault, and offers a complete surrender. Each creditor is apt to suppose his own debt a peculiar one, and there is found some one among the many, that will not give him his discharge. It results, that he is driven to the necessity of continuing the concealment of his property, and making no division at all. He is obliged to live upon this property, and is lessening it daily. He becomes irritated against his creditors; he thinks them cruel and unrelenting, and he accustoms his mind to his determinations to prevent their obtaining their just dues. He finally is guilty of prevarication and conduct which, in other circumstances, he would be ashamed of. He departs from that honorable, upright course he commenced with, and considers himself at war with those to whom he stands justly indebted. It is in adversity only that our trials present themselves. It is no difficult task to act well our parts in prosperity: it accords with our interests—it supplies us with means. It is in adversity only the truly virtuous are above temptation. His creditors grow impatient, and he is sued and thrown into a prison. The benefits of the limits are granted to him, and they are so extensive, that he finds that it is only to exchange his comforts to a different quarter of the city, by the renting of a new house, and at the same or greater expense. He becomes dispirited, negligent, and wasteful, and lives in this situation upon his creditors' money, and at their expense, until he apologizes to his conscience, and takes the insolvent's oath, bringing himself within the practice, and down upon a level, with the debtor, who commenced with fraud, and who arrived at the same end, by a shorter route. This, sir, is the course of ninety-nine in a hundred of the cases which occur. If, on the other hand, this system was in operation the debtor would have an inducement to disclose his affairs at the commencement of his embarrassments. It would not have been in the power of a single creditor to have prevented a dividend and distribution. The debtor would have been restored to society, and if his misfortunes arose from accident, he would have found friends who would have aided and assisted him in his future exertions. His integrity would have remained unimpeached, and he would not have been tempted to a course of conduct of which he himself is ashamed. But it is said you have still a lien upon him; his debt is not discharged. And, sir, let me ask, what that is worth? Can there be a solitary instance produced, of a debtor who ever discharged his debts after taking this advantage of the insolvent laws, and swearing himself out of prison? Is there an instance known where a single cent has been recovered? True it is the Government, in all their acts of discharge from confinement, continue their hold upon the future property of their debtor; but have they ever received the least benefit therefrom? Does it not amount, as the honorable gentleman from Pennsylvania has said, to a mere valueless right? What does your Treasury say

about priority? That the insolvent laws of the respective States, have almost annihilated the benefits of it; and I have been informed from respectable sources that from two to four hundred thousand dollars will be lost to the Treasury this year from that cause. Now, sir, with the bill upon your table, the whole sum would be obtained, for no dividend is contemplated until the Government's debt is first discharged. The evil may not be the same in all the States, and it is possible, with the aid of chancery powers, Virginia may be contented with her present insolvent system. But let it be remembered that Virginia is not a trading State, and therefore less liable to those evils which abound in commercial States.

But the honorable gentleman from Virginia says that this bill will not operate upon prudent men; here compromise will take place, and cites the case which occurred at Richmond. Two partners, men of integrity, who adventured at sea, and were unfortunate. Upon being acquainted with their misfortune, they called together their creditors, who, being assured of their conduct, took their several proportions, and gave them a discharge. And these men of high honor, still retaining a strong and proper sense of their moral obligation, having afterwards been prosperous in their future business, paid to their former creditors the whole of their remaining debts, with interest. Now, sir, it appears to me, the gentleman could not have cited a case more illustrative of the principles of this bill. It is the design of this bill to hold out this inducement; to produce this very settlement, and to give to the honest debtor a second chance to retrieve his affairs, and support his family, and, if able, to complete and fulfil his moral obligation, and be legally discharged. But let me ask, if one of these creditors had been found maintaining the doctrine of the gentleman, once a debt and always a debt, and adhering to that doctrine, what would have been the consequence? He would not have given his assent to a discharge. No dividend would have taken place; all future exertions, and all assistance from friends, would have been prevented, and the parties would have been compelled to have expended, for their maintenance, the money and property of their creditors. If the fact was correct, that compromise does and will take place with the honest and unfortunate in most cases, it would do away, in a great degree, the necessity of this bill; but experience pronounces otherwise. No, sir, a unanimous consent among creditors for compromise, is a very uncommon case, either with misfortune or fraud, and amounts almost to a prohibition for a debtor to ask it, with any hope of success. Individuals will be found, who maintain the above doctrine of once a debt and always a debt, and who will refuse their assent to compromise and discharge, however visionary and hopeless their prospect of future payment may be. Not so with the British creditor, and I think it will be conceded they are as alive to their interest as any men in the commercial world. From experience they have proved

the first offer to be the best offer, and they generally accept of it. They well know their debtor must live, and upon their property, and of course the offer of to-morrow will be less than that of to-day. It is from no regard or feeling for the debtor, but from motives of interest alone, their conduct is guided.

It is to remedy the above evil that two-thirds only are made requisite, instead of a unanimous consent. But, says the gentleman, it will induce a system of fraud, and we are directed to England for proof. I have always supposed that checks have a tendency to prevent crimes, and not produce them. We cannot make the law perfect; we cannot guard against the ingenuity of man, and establish a system at a moment that shall meet every case. But we have a consolation at hand; we cannot be in a worse situation than we now are. The whole, at present, is a system of fraud, increasing daily to an alarming degree, and aided by the insolvent acts now in operation.

It is said that the bill will produce a source of litigation. But surely settlement will not produce litigation. In the State I have the honor to represent we have been peculiarly unfortunate; we have never been able to procure any law, not even an insolvent law; and the adoption of any system for the relief of creditors has been successfully opposed by gentlemen of the profession from the country towns. If they were actuated by such a motive, that such a system would produce litigation, I have only to remark, it redounds so much the more to their honor and patriotism.

But it is said, it bears too great a similitude to the British statute; it is not sufficiently indigenous. They have already had nineteen statutes, and been four centuries in enacting and amending them. Can there, sir, be any impropriety in taking the advantage of their experience? If the bill that is now introduced by the committee had resembled the one enacted by the statute of Henry VIII, omitting all the amendatory statutes, there would have been more reason in the remark; but to profit by all their experience, is the mark of wisdom. We look to them as a great commercial people; as having experienced the evils that now oppress us, and we necessarily attend to the means they have adopted to check and remove them. They know the value of commerce; they have no jealousies against merchants; they consider commerce as their vitality; and, though it has cost them nineteen statutes and four centuries, they are not discouraged. They do not lose sight of their object, and persevere in preserving the system. Though not able to furnish all the necessary guards against frauds, it can be no reason that no guards should be furnished. As well we might say, we would have no punishments for frauds upon our revenue laws, because those laws still continue to be evaded, and the revenue defrauded; or have any laws against counterfeiters of our coin and notes, because we have not been able to detect and break them up.

It is also said that the British laws are severe

and most of the punishments are death; and yet, in four centuries, two solitary instances are only produced in a country where death is almost the exclusive punishment for every crime. But this remark cannot apply to this country, where our jurisprudence is more mild, and punishment is proportioned to crimes. I forbear going into the details of this bill; they are open to amendment, and may be so varied and modified as to be more acceptable to the Committee. But, sir, upon the whole, I cannot see any feature of this bill unreasonable. It is designed to put all our citizens upon an equal footing; its tendency is to prevent fraud; it holds out an inducement to an unfortunate man to surrender to his creditors his property, belonging to them, before he has wholly expended it; and it gives them a control over the fraudulent and dishonest who are indebted to them. By giving to the debtor a discharge, it restores him to society, and gives to him an opportunity of retrieving his circumstances, educating his children, and becoming useful himself. There are many instances, under the former bankrupt law, of debtors, who had been discharged under its provisions, paying afterwards to their creditors the whole of their debts, with interest; and it ought to be remarked, that if the debtor does not surrender the whole, he remains liable, his discharge notwithstanding.

It has been stated by the honorable gentleman from Pennsylvania, that there are upwards of seventy thousand who now are held by their creditors, and who have taken the benefit of the insolvent laws. They are, of course, without the reach of them, and live upon their creditors' property in defiance of them. They are useless to society, and are without inducement to habits of industry or morality. They have solicited their creditors to take all they possess, but have found them cruel and inexorable. By their embarrassments they are deprived of the aid of their friends, and they are by force driven to the paths and practice of vice. And this number is in the habit of receiving continual additions. Is it not a subject worthy of attention? Ought not some means to be adopted to check this increasing evil, and these men be restored to society? The property now in their possession would be returned to their creditors, and many of them, perhaps most of them, upright but unfortunate, provided with materials to commence a second and a more prosperous pursuit. I cannot but hope the subject will be found meriting the attention of the Committee, and the bill upon the table receive their support.

Mr. COLSTON spoke in support of the bill and against striking out the first section.

Mr. HOPKINSON said, he was not insensible of the impatience manifested by the Committee under the discussion of this bill; and, on an ordinary occasion, would not, for his own sake, intrude himself again upon its attention. But he considered the subject of too much importance to those whose interests he was bound to maintain, to be abandoned on any personal considerations. He was not in the habit of asking the ear of this



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House either often or long, and he now did it reluctantly, but as he believed necessarily. Mr. H. said, it was his intention to confine himself to the objections which had been made, from various quarters of the House, to the bill on the table; to state them fairly and distinctly; to answer them with candor and precision, and to avoid any repetition of the remarks with which he had introduced the bill, except so far as a recurrence to his principles might be found necessary to repel the attacks made upon them. In the commencement of this debate, Mr. H. said, he had stated several grounds, sufficient, in his judgment, to support the bill, and prove the necessity of adopting some general and uniform system to govern and regulate the extensive and complicated relations between creditors and debtors. He had relied, in a limited manner, on the Constitutional obligation to provide some such system; he had urged the example and experience of every commercial nation in the world; he had endeavored to show that it was peculiarly necessary here, from the nature of our confederated Government; the commercial intercourse kept up between the several States, essential to the prosperity of all; and, above all, from the provisions and practical effects of the insolvent laws of the several States, destructive of all honest dealing; of all commercial confidence and credit; and of every moral principle and feeling. How have these matters, certainly weighty, been assailed or removed? They have been untouched and unapproached; they remain unimpeached, both in point of fact and argument; and if they have a strength sufficient to sustain the bill, that strength is unimpaired. My remarks upon the Constitutional point have been entirely misunderstood, although I thought I took care to preserve them from misinterpretation. I have never contended, said Mr. R., that there is an absolute, indispensable, Constitutional obligation on Congress to pass a bankrupt law; but I do contend, that it comes so recommended to us by the Constitution, and by the people, who speak in and by that Constitution, that we may not disregard it; that it is our duty to exercise the power, to execute the trust, unless, on a full and fair investigation of the subject, it shall be manifestly unwise and injurious to the nation to do so. I do contend, that this high and general duty ought not to be dispensed with on doubtful reasons; on hypothetical arguments, drawn altogether from a presumed abuse of the law; much less from an indulgence of old prejudices or local views and interests. It is a great national object of legislation; it should be decided on national principles; it is deeply interesting to a vast and valuable portion of the people of this country; it should, therefore, be considered in relation to those interests, and determined on a fair comparison between the good it will certainly produce to this class, and the evil it may inflict, if any, on the rest of the community. This Government is founded on a compromise of interests, and every one has a fair claim to attention and regard.

What reply, said Mr. H., has been made to the

argument drawn from the experience of other commercial nations? An honorable gentleman tells us, that, as to France, and Spain, and Holland, we have no certain information of the nature of their provisions on this subject; and, of course, cannot judge how far they support the system now proposed. It is, said Mr. H., enough for me they have some system, which is uniform, certain, and known, by which the creditor is some way protected from fraud, the debtor from oppression, and the community secured in the advantages of a just and equal commercial intercourse between its citizens, and secured from the evils which must result from twenty different and conflicting systems, by which that intercourse is rendered uncertain and unsafe. It is agreed, however, that the English system is substantially the same with that now offered to the Committee, excepting such changes as the nature of our institutions, laws, and habits, has rendered proper. Is there then any nation to whose experience and wisdom on commercial matters we may look with more confidence than to England? I know of none. But to weaken the force of this authority, an honorable gentleman says, some other gentleman has told him, that Lord Eldon told that gentleman he doubted very much the advantage of the bankrupt laws of England. And of what importance is this opinion of Lord Eldon, or any other Lord, against the opinion of the British Parliament—of the British nation? It is very likely that an English Lord has very little interest in a bankrupt law, and may, therefore, imagine it is of very little importance to anybody. This, however, is not the opinion of those whose duty it is to look to every interest in the nation; to promote the prosperity of every interest, and devise and enact regulations suitable for every interest. The subject has not passed, *sub silentio*, in the British Legislature; on the contrary, of late years, it has repeatedly come under notice and discussion. Various amendments have been introduced, principally, I believe, by Sir Samuel Romilly, who has given a most special attention to the subject; but it never entered into his head that the whole system was pernicious, and ought to be repealed; nor has any such proposition been made by anybody in the English Parliament. This conversation opinion, therefore, of Lord Eldon is entitled to no consideration; and had he given it any himself, he would hardly have ventured its utterance.

Thus am I warranted in saying that the grounds on which I originally placed this bill remained unshaken, indeed untouched; and its opponents have rather resorted to the details for the materials of their opposition. I shall follow them here also, and shall not ask much time of the Committee in making my reply. Let me first, however, deal on this subject with that frankness and fairness which I hope always to maintain. This is a motion to strike out the first section of the bill; intended to discover the sense of the House on the general principle or subject-matter of the bill, in order that the time of the Committee may not be consumed in examining, amending, and ar-

ranging its details, when at last there may not be a majority of the House friendly to it, let it be modified as it may. It is obvious that, in this state of the question, gentlemen may vote against disposing of the bill in this way, who nevertheless may have insuperable objections to some of the details. That there may then be no misunderstanding on the subject, I will state explicitly what I consider essential vital provisions, without which I could not myself vote for the bill. Those gentlemen, therefore, who will not accept it with these provisions, are fairly advised they will not be dispensed with, and give their votes accordingly. In the first place, I consider the limitation in the first section, of the operation of the law to traders, to those persons who really live by buying and selling, as absolutely necessary to be retained, because such persons only are within the reason and policy of the act, and because it is by this limitation only we can prevent those abuses and evils which mainly produced the unpopularity of the former bankrupt law, and which are greatly felt and complained of in England. In the second place, I hold the entire and absolute discharge of the debtor, after he has fully surrendered all his property, and satisfied the commissioners and a specified portion of his creditors of the honesty of his conduct, in relation to the causes of his failure, his deportment under his difficulties, and the fulness of the surrender of his effects; also to be indispensable to the great uses of this law, and without which I cannot support it. My reasons for offering this and other advantages to embarrassed men have been already explained. As to the less important details of the bill, I profess myself ready and willing to accommodate them to the wishes of gentlemen, knowing that no changes will be desired that must be destructive of the whole. With this avowal, I proceed to notice those objections to the bill which have struck me as requiring an answer. I find some general errors pervading all of them, which I will endeavor to remove. The opponents of this bill have uniformly treated it as a measure for the benefit of the debtor only, overlooking entirely the numerous provisions for the security of the creditor; the power afforded to him to prevent and detect fraud; the inducements to an early surrender and honest disclosure of the effects of the bankrupt, and the penalties inflicted on dishonesty; all of which are calculated to discover and obtain for the use of the creditor the whole property of the debtor by a fair and equal distribution. The benefit thus afforded to the creditor is as ample and effectual as, under the circumstances, justice, or reason, or policy can require; and the power taken from him is only that of exercising a wanton and useless cruelty over the life and happiness of the unfortunate. A great portion of the remarks urged against the bill has its foundation in another error. Gentlemen have tasked their ingenuity to imagine cases of hardship and injustice to a creditor, which may by possibility happen after this law is enacted. This may be all true, but does it furnish any sound objection to it? It

amounts to no more than this: that, even under this system, creditors will not always obtain their debts from their failing debtors; and that frauds may sometimes happen in spite of all that we can do to prevent them. And does anybody doubt this? Murders and larcenies, and every crime on your penal list, are perpetrated from day to day, but it was never therefore imagined there should be no laws to prevent and punish crimes. You must consider this bankrupt system not as professing to create property to pay debts, but only to aid the creditor in obtaining such property as his debtor possesses for that purpose; not as banishing vice and fraud from the dealings of men, but as diminishing them by the joint operation of rewards and punishments. You must consider it in comparison with the insolvent laws which now govern these matters, and fairly decide between the effects of one and the other. It is enough that the bankrupt law affords no encouragement or facilities to fraud; but does all that, perhaps, can be done to prevent it. Another error, which has been a fruitful source of objection, is this. Gentlemen take for granted that every bankrupt is a rogue, a criminal, and may be treated as such; that he is entitled to no commiseration from anybody; and that any law which may alleviate his sufferings or improve his condition is really a violation of the rights of justice and morality. Nothing can be more unjust than this opinion. Many, very many of these men are the true victims of misfortune; and some of them cannot be charged even with imprudence. They retain the respect of society and the affection and confidence of their friends; and are not those corrupted outcasts in whose fortune or fate no honest man should take any concern.

The great attempt to break down this bill has been made by exciting the jealousy and hostility of the agriculturist and manufacturer against it. They are told we are raising up a privileged order of men in society; who are to have rights and immunities denied to others, and enjoy favors of peculiar indulgence. Really, from representations of this sort, one would suppose that, instead of imploring the rights of humanity for a suffering band of unfortunate and ruined merchants, we were endeavoring to institute some new order of nobility. I pray you, sir, and the Committee, in imagination, to bring before you this highly privileged order; then judge, and say if there be anything in them that should alarm the fears or awaken the jealousies of the most sensitive friends of equal rights. Array them before you; look at their countenances, humbled by a long course of misfortune; their spirits broken by mortification; their garments shabby and tattered; their whole appearance bespeaking the wants of poverty and the negligence of despair. In this group of wretchedness you will see, too, mothers and children, even more dejected, more pitiable, than the authors of their sufferings. This, sir, is the privileged order of which you have heard so much. It is the *Order of Misery*.

One honorable gentleman, from Virginia, has told us that he appears on this floor in behalf of

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the agriculturists, to prevent this formidable evil; this distinction of rights to their prejudice. I have no desire on this or any other occasion to create jealousies among the different occupations of our citizens, which may disturb the harmony of the whole, and are without any just foundation. But when that honorable gentleman considers this bill such an invasion upon the rights of the farmer that he thinks it incumbent upon him specially to appear in their behalf, and for their protection; when he tells us they are the more entitled to this protection, because for themselves they ask nothing, they get nothing, they desire nothing; it is impossible to withhold the remark that if there be any privileged order of citizens among us, at least in the State in which that honorable gentleman resides, it is these very unpretending, unassuming landholders. Who does that gentleman represent here? Landholders, and only them. Who but a landholder had a right to vote either for him or against him? Who but a landholder can be voted for to any office? Nay, to be trusted as a juror in that State, you must be a proprietor of its soil. I do not mention these things in the spirit of complaint or reproach. It is not for me to arraign the wisdom or policy of those who govern Virginia or any other State; but assuredly the landholder of Virginia is the last man in our country who should be so delicate about privileges, or stands in need of protection against them. We have had, from other gentlemen, a comparative display of the usefulness and importance of the three great classes of society; the agriculturist, the merchant, and the manufacturer. This is an old subject, that has been discussed a thousand times; and I thought had settled down, after so much toil and controversy, where common sense would have placed it in the beginning. They work all together; they are mutually and equally necessary to each other; the business of the country flows through them all in a continued circulation; they are parts of one great whole, and an injury or benefit to any one of them is immediately felt by the others. It has been strenuously insisted that the farmer should be entitled to what are called the benefits of this law; that is, that he should be entitled to have a commission of bankruptcy taken out against him in the manner and for the acts prescribed in the law. I will not repeat the arguments of my colleague to show that the Constitutional power under which we are acting, was intended to be applied only to commercial men and their transactions, and cannot in the true spirit and meaning of the Constitution be extended further. I think it is most obvious and demonstrable, that, if we had the power to include the farmer within the provision of a bankrupt system, it would be utterly impolitic and unjust to do so. I mean as regards the farmer himself; and that these privileges, as they are termed, so proper and beneficial, when applied to the merchant, would be absolutely destructive of the agriculturist. Look at the acts of bankruptcy specified in the bill, and authorizing a commission; and see what would be their effect upon the farmer.

Reflect upon the reason of the power placed in the hands of the creditor of the one, and observe how totally inapplicable it is to the condition of the other. The acts of bankruptcy may be divided into two classes; those which indicate fraud, and those which furnish unequivocal evidence that the effects of the debtor are inadequate to the payment of his debts. In both cases the law arrests the course of the debtor; takes his property and affairs out of his hands, and appropriates his effects to the use of his creditors. Now, the difference between the farmer and merchant, in this respect, consists in this; that, from the nature of their business and the nature of their property, the same act which would be satisfactory evidence of the insolvency of the merchant, and therefore justifies a commission of bankruptcy against him, is no evidence of the insolvency of a farmer, and therefore ought not to justify the same proceeding against him. For instance, it is an act of bankruptcy in a trader to remain two months in prison for debt; and why is it so? Because, considering the facility with which a trader may obtain money, while he retains his credit, by notes and banks and various accommodations in use among commercial men; considering the facility with which he may raise funds on his stock in trade, by pledging or selling it, it may fairly be concluded that neither his credit nor stock, nor both, are competent to the payment of his debts when he suffers himself to be so long imprisoned for a debt; in short, that he is insolvent, and ought no longer to be trusted to continue his business or dispose of his effects; and the law therefore puts a stop to both. How different is the case of the farmer. He, generally, lives, where the complicated system of mercantile credit and accommodation is unknown; and where money is not heaped together in known places for the use of those who can furnish the customary security for repayment; his property, though valuable, is unwieldy, and can neither be easily turned into money, nor pledged for loans, except in ways altogether ineffectual for sudden emergencies. Is it not obvious, then, that the inability of such a man to pay a debt, and his consequent imprisonment for a time, may be no evidence of his general insolvency, or the incompetency of his property to meet every demand upon it? The capital of the merchant is a fund which he may always command to its whole extent for the payment of his debts, while the farmer must depend not upon the capital, which is his land, and must not be separated from him, but upon his profits on the produce of his capital. This comes only at fixed periods; this may not always instantly have a market; and it is, therefore, notorious, that a farmer really worth twenty or thirty thousand dollars may sometimes be unable to command one thousand. Would you, therefore, make him a bankrupt? Would you take possession of his farm, his stock, his everything, and turn him out without a home? Would you sell, under any circumstances of disadvantage, his land, his cattle, his utensils; and discover, after you have ruined him beyond redemption, that his property exceeds

the amount of his debts—that no man would have lost a farthing by him had his business continued; and that those facts and circumstances which, in the case of a trader, are conclusive proofs of general insolvency, are no evidence whatever of this state of things with a farmer? It is, therefore, as the friend of the agriculturist, that I would exclude him from the provisions of the bankrupt law; that I would not expose him to a power which might crush him to atoms, in violation of every principle of policy and justice. But, while I would not expose the farmer, to the injuries of the law, is it not equally true that I afford him its most valuable benefits? He is, above all men, (when a creditor,) interested in the passing of this law; for by it only can he hope for any part of the property of his insolvent debtor. The case has been strongly put by the honorable gentleman from New York. The planter of the South sends his cotton or his rice to the merchant of the North; the merchant fails, and the planter comes to look for his property or his money; he finds that, although unknown to him, this man has long been in a tottering condition; that his cotton has gone to stop this or that pressing demand, or pay this or that favorite creditor, while he who was distant, and therefore not importunate or dangerous, has been disregarded and defrauded. How would this be under the operation of a bankrupt law? The fraud would have been prevented—these preferences overthrown, and the distant creditor permitted to receive an equal and just proportion of the property of his debtor. The law would guard him when he could not guard himself, and watch for him when he could not observe the mischief that was working against him.

But another, and, I may say, most extraordinary objection, has been urged, with great earnestness, against this law. The honorable gentlemen who make it may be, and I presume are, very sincere in the apprehensions they have expressed on this point; but, I fear, the uncharitable world will hardly give them credit for it. A bankrupt law, we are told, is productive of controversies, and this law should be rejected because it will increase litigation. Really, when I hear gentlemen of our profession expressing this tender sensibility on the subject of litigation, and deprecating any measure which may, by any possibility, increase it, I cannot but say, "*timeo Danaos dona ferentes.*" But I beg them to dismiss this groundless solicitude for the public peace, or let it rather become the friend of the bill before us. Nothing is more obvious or demonstrable than that the effect of an uniform system of bankruptcy; of the adoption of general, consistent, and known rules to govern the relations of debtor and creditor throughout the United States, must necessarily be to diminish litigation. This is the necessary tendency of certain and known rules on any subject, and on this most especially. A bankrupt system in its general features, and, indeed, in most of its details, has been so long established and in full operation in England, that a question can scarcely now arise under it that has not received a judicial decision; which, of course, would have

its weight in our courts. There is, at this time, as little unsettled matter in the bankrupt law of England as any other part of her jurisprudence. How is this with respect to our insolvent laws? What litigation, what endless strife may not be apprehended from the operation of twenty various, conflicting, irreconcilable systems upon the same subject? The tribunals who administer these laws are as various and dissimilar as the laws themselves; here it is the Legislature—there some common law court, and in another place a chancellor. The mode of proceeding, so important to be known to the creditor, changes with the nature of the tribunal, and the creditor has lost his right before he has discovered how or where he should pursue it. The effect of the discharge is not more uniform; in some places the person of the debtor only is liberated; in others the debt is wholly discharged. When we inquire into the influence of the discharge in other States, the result is still more uncertain; nay, it is absolutely inscrutable. I venture without fear on the assertion, that there is not a lawyer in this House who can answer the inquiry. If you ask the court in Pennsylvania whether it will regard the insolvent discharge of another State, you cannot receive a direct answer affirmatively or negatively; you will be told that the answer to this question depends upon the answer to another; that is, whether the other State recognises the discharges of Pennsylvania; in which case, as a matter of courtesy, Pennsylvania will regard the rights of the citizens there. The personal liberty of the citizen is thus made to depend not on any known law, but on the courtesy of courts; and you may, at the same moment, see a citizen of one State discharged from arrest, and another committed to prison, under precisely the same circumstances, except this reciprocal, capricious, arbitrary courtesy. Certainly, then, we have here abundant sources of litigation; all of which will be dried up under an uniform system of law. But there is still another; there is a constant struggle among the creditors of one embarrassed for advantages; for assignments; for preferences in all their forms; and the harassed, distracted debtor endeavors to quiet and satisfy them all. The result is, a resort to lawyers for counsel in the concoction of these advantages; and, finally, an appeal to the courts to decide upon the claims of the candidates. If, then, this dread of litigation works so strongly in the minds of the opponents of this bill, I hope we shall see them among its warmest friends.

I will now consider an objection which I have reason to believe has no inconsiderable influence with some of the members of the Committee. It is alleged that the experiment of a bankrupt law has been once fairly tried, and found so pernicious in its effects that it was repealed in a very short time with an unanimity almost without example. This argument should have very little force in a Congress of the United States, when we look round and see how entirely it has been disregarded in relation to other subjects to which it has an equal application. An experiment was

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made of a Bank of the United States, and at the expiration of its charter it was deemed either so useless or so pernicious that a renewal of the charter was refused; and yet a subsequent Congress, in defiance of this decision of their predecessors, re-established a Bank of the United States. What law was ever repealed with so much unanimity, I may say with such loud acclamation of applause, as that passed in the Presidency of Mr. Adams, creating a system of internal taxation? But this was thought no reason why it should not afterwards be re-enacted. These instances only show that good laws may be rashly repealed; and that honorable men, when brought to vote upon them, will do so without recurring to former opinions or prejudices, but on a full consideration of their merits. At least they show that laws, even if once properly repealed, may afterwards, under other circumstances, or by the light of more experience, be found wise and necessary. But to meet the objection, as particularly applied to the bankrupt law, I have already suggested, and will not repeat my observations on this point, that the unpopularity of the law of 1800 was mainly owing to the generality of its provisions, embracing professions and classes of men not within its original design or policy. This evil is guarded against in the present bill; which also differs from the former law by the introduction of several important amendments for the benefit of the creditor, and the security of bona fide transactions with the debtor, unknown in 1800. The effect, therefore, of the law now offered must not be judged of by the former law; nor should it be condemned by a standard to which it is so dissimilar. Again, sir, I deny that the former act had a fair trial, or the people a fair opportunity of judging, by that experiment, of the legitimate operation and uses of a bankrupt system. The commercial importance and enterprise of the United States began with the adoption of the present Constitution, and before the year 1800 had extended themselves beyond example. In the same period Europe became convulsed with revolutions and war, and neutral commerce exposed to the arbitrary violence of the contending Powers. The consequence of this state of things was inevitable; our country grew extravagantly and suddenly rich by the aggregate of our commercial exertions, while individuals were daily falling into ruin by the unexpected orders and decrees, and the unauthorized violence of the belligerents. Remember, sir, that in all this time we had no bankrupt law; and the unfortunate trader had no recourse for relief but the mercy of his creditors, or the refuge of the insolvent acts; which could be obtained only by a surrender of the remnant of his fortune. The consequence was, that when, in 1800, the bankrupt law was enacted, there had accumulated a vast mass of insolvent debtors who had previously been stripped of every cent. These men were necessarily the first to fly to the assistance and protection of the bankrupt act to enable them again to embark in business and retrieve their losses or earn their bread. The public then saw hundreds of men

obtaining the discharge afforded by the system, who surrendered little or nothing to their creditors, and were indeed, in many instances, enabled to pay the expenses of a commission only by the kindness of their friends. They saw, too, that in almost all the cases the commission was evidently taken out at the instance of the bankrupt himself, although pretending to be a proceeding of the creditor against the bankrupt. Can we wonder then that the public should exclaim, if this is the effect of a bankrupt law, it is really intended only for the debtor, and affords nothing to the creditor? The real truth of the matter is, that these evils grew not out of the bankrupt law, but from the want of it; and it is most unjust to charge upon the system those mischiefs which were engendered when it did not exist, and which never would have had birth if it had existed. If, in the period mentioned, there had been a bankrupt law, the debtors would have run on until all they had was wasted; and the complaints which have been made would never have been heard.

The fair, the just and legitimate operation of the law of 1800, was never experienced. It came into action loaded and encumbered with all the frauds and sins of the insolvent laws; which it was obliged to clear off before it could exercise its proper functions and prove its usefulness. And so will it be with the law now before us, should it pass. It will have much of the same sort of difficulty, to struggle with; much of the same reproach to encounter; and it must pass through this ordeal before its true character and excellence will be developed. But, I venture most confidently to predict, that when this trial shall be passed, and the system shall be seen in the full and fair exercise of its power and uses, it will be found an invaluable auxiliary to commerce; a strong security to the creditor against fraud and injustice; and a blessing to the unfortunate debtor. It is contended that the concerns between the creditor and his debtor require no legislative regulation; that we should leave creditors to themselves; they know how best to take care of themselves; and, on the other hand, are the best judges of the conduct and merits of their debtor, and will be sufficiently disposed to favor him when really unfortunate. It is enough to answer to this argument that all experience is against it; and we daily see it disproved in both of its parts. We daily see that the creditor is not able to protect himself against the frauds and contrivance of his debtor; and we also see that the most honest and deserving debtor will find some one or more of his creditors inaccessible to reason or pity, and who can, without remorse, behold him lingering on in hopeless poverty. Still it should be observed that this law does not take the case entirely out of the hands of the creditor, as the insolvent acts do. Much is left to the discretion and feelings of the creditors, two thirds of whom in number and value must concur before the bankrupt can obtain his certificate of discharge. On the very principles then of the gentlemen who use this argument, there can be no danger in trusting the administration of this law to the

creditors themselves, or so great a portion of them. Again, we are told that this law is made for the bold dashing speculator; who will plunge into trade without capital; run into debt as deeply as his credit will carry him; and then clear out under this law, to commence the same career again; and run through the same course of extravagance and fraud. I may reply to this, that such a case may safely be trusted to the creditors; even if you would not trust the commissioner and judge; and, when all must unite in granting the certificate, there is no very alarming danger of such abuses. The act itself has a guard against such extravagance or profligacy. It will be found that in case of a second bankruptcy, no certificate shall be granted unless the effects surrendered are sufficient to pay every creditor seventy-five per cent. of his debt and in case of a third bankruptcy, nothing but a full payment of every debt can exonerate the future effects of the bankrupt from the claims of his creditors.

It has been urged, not without plausibility, that, inasmuch as the bill before us does not propose to repeal the State insolvent laws, it will not attain that uniformity contemplated by the Constitution, and so much insisted on by its friends. Several answers present themselves to this argument. In the first place, if the term bankruptcies in the Constitution is to be taken in its limited, technical sense, we then fulfil the Constitutional power and design, when we enact uniform laws respecting them among merchants or traders. Secondly, if the bill does not take up the whole Constitutional power, or rather does not do all that might be done under it, it affords no reason against it as far as it goes. The manner of exercising the power is certainly left to the discretion of Congress, and we think it has been clearly shown to be inexpedient at least to extend it further than is now proposed. And lastly, the uniformity, so much required and desired, applies not so much to the transactions of persons all residing in the same State, as to those in which some of the parties reside in one State, some in others, and some in foreign countries. Almost all the cases of this last description will fall within the power and provisions of the bankrupt law; while the operation of the insolvent laws will be confined almost altogether to the minor dealings of persons in the same State, and indeed generally in the same neighborhood; and the rule applied to them, as between the parties, will be equal and uniform, even under the insolvent law.

An honorable and eloquent gentleman from Virginia, (Mr. TYLER,) has declared it to be a fixed principle with him, that once a debt always a debt; and he therefore opposes a law which assumes to discharge a debt without the consent of the creditor. It would seem to me a much more just and reasonable rule that, while a debt, all the property of a debtor, of every description, should be answerable for it, in a manner best calculated to pay the debt promptly and certainly. And yet, in the State represented by that gentleman, the real estate of the debtor is inaccessible to the

claims of his creditor; I mean the fee-simple of such estate. It is true you may take one-half of it, and appropriate the income or profits of that half to pay the debt; a process of payment so tedious, so troublesome, and uncertain, as to amount, practically, almost to an exemption of real property from the payment of debts; and so far affirms the maxim of once a debt always a debt, as to afford very little chance of its ever being paid. I mention this instance to show that the rights of the creditor to a rigid exaction of his debt from the means of his debtor, are not so uncontrolled or sacred as has been suggested, but are made to submit to the higher power and policy of general convenience and utility. I beg leave to refer the gentleman to another still stronger infringement of his maxim. Every State of this Union, and every other country with whose laws we are acquainted, has statutes of limitation, by which they debar a demand however just and unquestioned, that is not claimed in a given period. This is an arbitrary rule of society for general convenience, and having no relation or respect to the particular cases to which it may be most unjustly applied. So far, then, from its being the understanding of the law that once a debt always a debt, it may be once a debt and not a debt six years afterwards, though not a farthing of it has been paid, or is pretended to have been paid. What can show more strongly than this, how absolutely society undertakes to regulate the concerns between creditors and their debtors, and to discharge the obligations between them, for reasons of general policy and convenience, without any regard to abstract notions of rigid right as between the parties? It is nothing to say that this is done on a presumption that a debt so long neglected has been paid, or to prevent claims being brought forward after the evidence of the defendant may have been lost. It is enough for us that this is the presumption and reason of the law, not of the parties nor of the contract, in many cases directly against the truth of the fact; and if the right of the creditor may, in this case, be governed and defeated on this presumption or reason, it may be done in another case for another, and proves decisively that such interference with the obligations of contract is not considered a violent or unauthorized proceeding in any Government. I promise, in writing, to pay a man a thousand dollars on demand; of course, leaving it to him to make the demand when his pleasure or convenience may dictate. No, says the law, we will change this contract, and compel you to make this demand in a certain time, which we deem reasonable, or you shall forfeit all right to the recovery of the debt. And why should the law not say this? This boasted right to the debt, or at least the means of enforcing its payment, without which it would be of little value, is given by the law, and of course must be justly given on such terms as the law shall deem to be essential to the interests of the whole community, for whom the law is made. The application of these provisions to the principles of the bankrupt law, and the discharge thereby granted to a debtor is



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obvious. One honorable gentleman thinks the bill unconstitutional, because it impairs the obligation of contracts. I am at a loss to understand how the exercise of an express power, given to us by the Constitution, can be a violation of that instrument. If there be a general prohibition on this subject, the enactment of a bankrupt law is an express exception to it. The same gentleman would have no objection to the law if it were retrospective only, but he cannot assent to its prospective operation. But certainly, as far as it affects contracts, the exception is stronger in relation to the past than the future, which will be made after the provisions of the bill are publicly and perfectly known, and may be considered to enter into every contract after it is so known.

An honorable gentleman from Virginia (Mr. PINDALL) has gone beyond all the opponents of this bill in the number, variety, and, I may say, novelty of his objections; yet I do not find very many of them which require of me to detain the Committee to answer them. In truth, generally speaking, if well-founded, they apply to the English bankrupt system, and not to that now offered to us. The gentleman has delighted to recount, again and again, the sanguinary features of the British statutes on this subject; to array and portray them in every change of language; and press them upon our imagination with all the force in his power. He tells us there are seven crimes punishable with death by those statutes, and argues, most inconclusively, that, because this system requires for its support such excessive punishments in England, we therefore must also adopt them for the preservation of ours. Is it not a sufficient answer to all this part of the gentleman's argument, which is no inconsiderable part of the whole, that the bill before you contains no such punishments; and that, if at any time hereafter it shall be proposed to introduce them, it will then be in the power of the Legislature to refuse to admit them, and to repeal the whole law if its use and execution shall be found impossible without them? It is really a hardship upon the supporters of this bill that they are compelled to defend it not only for what it does contain, but for what it does not and probably never will. The English bankrupt law, in respect to its penalties, only preserves the character of the whole penal code of that country; and we might as reasonably refuse to enact laws for the punishment of burglary, perjury, forgery, or larceny, because these crimes are punished with death in England, and if it be found necessary so to punish them there, it must be equally so here. The gentleman says he is willing to take the Roman law of cession, to which I alluded in the opening of this discussion, and that by that law the person only, and not the future effects of the debtor, were discharged from liability. Sir, I mentioned not this law as the model we should pursue, but as the first step taken to soften the condition of the debtor, and abridge the cruel rights of the creditor, which had been most cruelly and wantonly abused. I am not, therefore, willing to take this law of cession—to stop at the first

step of improvement—but would go on, and take advantage of every further improvement which experience, and wisdom, and humanity, have dictated and adopted. Why should we be told that the British bankrupt system stole into existence; or, to speak more properly, that it is the gradual fruit of long experience—of attentive observation and profound political wisdom—and that we are about to do, with a single dash of a pen, what was so slowly and adroitly done there. I understand the sentiment to be, that we boldly propose to adopt, in mass, a system, which even in England could not be introduced but cautiously and by piecemeal. What is there in this remark more than that we take advantage of the lessons experience has taught them? Do we not the same thing on other subjects? In science, in arts, in manufactures, in everything, do we not at once seize upon them in their most improved state, although they may have been stealing to that state for years or for centuries?

In giving a very short history of the laws regulating the power of a creditor over his debtor, in different ages of the world, I mentioned that, in Rome, it was under the reign of the Christian Emperors, that the rights of humanity came to be regarded on this subject, and the rights of the creditor to be restrained within reasonable bounds, so as to prevent the exercise of useless cruelty and wanton oppression. I did mention that this was one of the blessings and triumphs of Christianity, which teaches and commands forbearance, and kindness, and charity, from man to man, in all situations, and under all circumstances. This incidental remark, which, if it deserves notice, certainly cannot deserve reproach, has afforded an occasion to the honorable gentleman from Virginia (Mr. PINDALL) to exhibit himself in a new character. We have often seen and admired him as a learned lawyer, a sound logician, and a skilful debater. But now, for the first time, he has presented himself to us as a wit. He tells us the Christian religion, he has been taught, has nothing in it for the regulation of commerce: he finds no bankrupt law in the Old or New Testament; and that none of the Apostles was a merchant, except Judas Iscariot, and he sold his master. I am far from finding fault with the gentleman for endeavoring to enliven a dull debate with the brilliancy of wit; on the contrary, my only regret is, that he has not been more successful. Sir, had he been satisfied with making the bill before you the object of his merriment, or even the author of the bill, I assure you he would have met with no complaint from me. But, when he selects, for this purpose, the Scriptures of God, and the Apostles of Christ, he will pardon me for saying the joke was equally ill-judged and misplaced. The same honorable gentleman has considered the interference of this law, with the mode practised in Virginia, of marshalling the debts of an insolvent by a Court of Chancery, as a serious objection to it, at least in Virginia; and goes on to say, that if this is not the case in Pennsylvania, it is owing to our wretched system of jurisprudence, being without

this Court of Chancery. When the gentleman pronounces this sweeping condemnation of our system, it is but fair to ask him if he certainly knows what it is; if he knows in what manner these Chancery powers are distributed to our common law courts; and how conveniently they are exercised by them. I can assure the gentleman that some of our best lawyers, who may be supposed to be competent judges of the subject, are so far from thinking a Court of Chancery would be any improvement to our system, that they would by no means see it introduced.

The right to examine the wife of the bankrupt for the discovery of concealed property, but for no other purpose, has furnished a ground of vehement opposition to the bill; but, in my opinion, with a very little reason. It is said to be making her a witness against her husband. This is not the case; the examination is only touching property concealed: it is here the evidence may incidentally affect her husband; but she cannot be legally or properly said to be called as a witness against her husband. But if it were so, why has not the objection been carried, on the same principle, a step further; and why has it not been said that you shall not examine the bankrupt, because no man can be called upon to testify against himself? The objection would be stronger, inasmuch as compelling a man to bear witness against himself, is a stronger case than to compel any other person whatever to do it. But there is a clear and decisive answer to this objection, on general principles; it is founded on a common law rule of evidence, doubtless very wise, and proper to be observed in the usual administration of justice. But after all it is but a rule of social policy, founded in convenience rather than abstract right or justice; and being the creature of social policy, it must be accommodated to it. When, therefore, a new tribunal is raised, to attain a special object, and the adoption of this rule by this tribunal would defeat or embarrass it in accomplishing the desired object, why should it not be dispensed with? There is nothing novel in this principle; we see it daily in practice. Follow the trial of a commercial cause, a controversy on an insurance, or a bill of exchange, and you will see evidence received not admissible by the common law, in suits of a different character. It is unnecessary to enumerate instances; they are familiar and numerous. So, in your Courts of Admiralty, not only all the forms of the common law are disregarded, but the trial by jury laid aside.

Ten or twenty claimants, with several rights and no joint interest, are permitted to prosecute together; and why is this? Because the nature of the court, and the matters to be examined and decided by it, require this sort of proceeding; and so when a tribunal is erected to settle the affairs of a bankrupt, to distribute his effects among his creditors, and secure them from the fraudulent concealment of these effects, there is nothing unreasonable or unjust in giving powers necessary for this purpose, which good policy might withhold from ordinary courts or ordinary

occasions. Nor is there any more reason for the complaint against the power given to the commissioners to break doors, trunks, &c., in the day time, to get possession of goods, books, &c., belonging to the bankrupt; and yet this is called a violation of the sanctity of a man's house, which is said to be his castle. And why should it not be violated to prevent fraud and robbery, as well as by bail for taking the person of his principal, and in many other instances, showing that this common law rule too is made to accommodate itself to more important rights and duties? The objection to holding out rewards to informers of concealed effects, is still more extraordinary and groundless. Who will complain if a reasonable inducement is offered to persons who may have it in their power to discover concealed property of a bankrupt? The reward is not for an accusation and conviction of some crime, but for the actual discovery and production of property, which otherwise, perhaps, would never have come to the knowledge of the commissioners, and would, consequently, have been lost to the creditors. Will the creditor complain that some small part of the effects thus brought to his use is appropriated to reward the individual by whose labor or vigilance it was obtained? If, however, it is pretended to be impolitic, on general principles, to encourage informers by tempting rewards for their services, I beg to refer the honorable gentleman to the whole system of our revenue laws, where he will find the same thing in almost every page. The whole execution of these laws, and also the embargo laws, the non-importation acts, &c., were made greatly to depend upon the aid of informers, whose efforts, therefore, are invited by the most liberal rewards—by large portions of what may be obtained by their services.

Some other observations have been made in opposition to this bill, which it was my intention to notice; but I feel how irksome this question-and-answer sort of argument is, and I shall omit to pursue it further. That frauds have been committed under bankrupt laws, and may be committed under this, is most true; but this only proves the incompetency of human authority entirely to restrain human vices, or prevent the commission of crimes. We do not, therefore, decline the attempt, or refuse to enact statutes to punish the criminal, and prevent, as far as possible, the offence. It is enough for this, or any other law, that it affords no facilities to frauds; that it offers no encouragement to the fraudulent; but that all its provisions are calculated to restrain and punish them, and to encourage and invite the unfortunate still to retain their integrity, and do justice as far as they have the means.

Mr. Chairman, our deliberations and proceedings on this bill are watched and followed by many an aching eye and throbbing heart. There is an accumulation of distress in our community which can be only thus relieved, hardly to be imagined by those gentlemen who do not inhabit the commercial portions of our country. Thousands, whose enterprise, too daring, or most unlucky, has enriched their country and ruined

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*Death of Mr. Goodwyn.*

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themselves, now look to you for their emancipation from a slavery more intolerable than chains of iron, for it weighs upon the heart, more immovable than bolts and bars, for death only can afford an escape. An incalculable mass of talent, industry, and energy, bound in icy fetters, will spring again into action, improved by experience and chastened by misfortune. Thousands will be seen striving and laboring in the paths of useful industry, who are now sunk in a torpid inactivity, borne down with a weight of debt, which no effort on their part can shake off or lighten. Look at the families of these unfortunate men, once in the enjoyment of every comfort, perhaps of too much luxury, now doubtful, from day to day, of the bread that is to feed and the raiment that is to cover them. Children growing up with neglected educations, and mothers weeping with unavailing tears. If, saddened by a scene like this, the distracted husband and father would go forth to make some effort for the relief of those so dear to him, he finds at his door some inexorable creditor, armed with the power of the law, and shrinks back into his dwelling of wretchedness, in hopeless despair. What a heavenly task is it to redeem so much misery, to banish so much distress, to shed the joyful rays of hope and life upon so much affliction, to reanimate the sinking heart, to reassure the despairing spirit, and restore the energies of industry and the bustle of business within those walls where silence, and wretchedness, and lethargy have so long held their gloomy reign!

After Mr. HOPKINSON concluded his speech, the question was taken on striking out the first section of the bill, and decided in the negative. For striking it out, 64; against striking it out, 71.

The Committee then rose, reported progress, and obtained leave to sit again.

A motion was made to adjourn to Monday, which was ineffectually opposed by Mr. COBB, and the House adjourned to Monday.

MONDAY, February 23.

#### DEATH OF MR. GOODWYN.

After the usual form of reading the journal of the preceding day's sitting, Mr. NEWTON, of Virginia, rose to announce to the House the death of his colleague, Colonel PETERSON GOODWYN.

On me (said Mr. NEWTON) devolves the melancholy duty of informing this House of the death of our late worthy associate, Mr. PETERSON GOODWYN, of Virginia. Mr. Goodwyn died at his seat in Virginia on the 21st of this month. He has performed and finished his duties here, and with a clear conscience, and in the full expectation of the reward of his virtues, he has gone for a time to repose with his ancestors in the tomb. In amiableness of disposition, in suavity of manners, in acts of benevolence and charity, in steadiness of friendship, and in love and devotion to the republican institutions of his country he was surpassed by no man.

Mr. NEWTON offered the following resolution, which was unanimously agreed to:

*Resolved*, That the members of this House will testify their respect for the memory of PETERSON GOODWYN, deceased, late a member of this body from the State of Virginia, by wearing crape on the left arm for one month.

Mr. NEWTON then submitted the following resolution, which was also unanimously agreed to:

*Resolved*, That a message be sent to the Senate, informing them that this House, in testimony of their respect for the late Colonel PETERSON GOODWYN, one of their body from the State of Virginia, have unanimously resolved to wear crape on the left arm for one month.

And then, on motion of Mr. FORSYTH, the House adjourned.

TUESDAY, February 24.

Mr. POINDEXTER presented a petition of sundry inhabitants of that part of the State of Mississippi, which was formerly a part of the Spanish province of West Florida, praying that certain grants, made by the former Spanish Government, of extensive bodies of land for the purpose of speculation, may not be confirmed.—Referred to the Committee on the Public Lands.

Mr. NEWTON, from the Committee of Commerce and Manufactures, reported a bill to authorize the apprehension of foreign seamen deserting the vessels to which they belong; which was read twice, and committed to a Committee of the Whole.

Mr. ROBERTSON, of Louisiana, from the Committee on the Public Lands, to which was referred, on the 14th ultimo, the petition of sundry inhabitants of the Territory of Illinois, made a report thereon, which was read; when, Mr. R. reported a bill confirming certain claims to land in the Illinois Territory; which was read twice, and committed to a Committee of the Whole.

Mr. BASSETT, from the committee to whom was referred the Message from the President of the United States in relation to the claim of the heir and representative of the late Caron de Beaumarchais, made a detailed report upon the said claim, which was read; when, by leave of the House, Mr. B. reported a bill, relative to the claim of the heir of Caron de Beaumarchais; which was read twice, and committed to a Committee of the Whole.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the House of Representatives of the United States:*

Conformably with a resolution of the House of Representatives of the 12th instant, I lay before that House a report which I have received from the Department of State, with a copy of the letter communicated with it.

JAMES MONROE.

WASHINGTON, Feb. 18, 1818.

The Message and accompanying documents were read, and referred to the Committee of the Whole, on the bill relative to the heir of Caron de Beaumarchais.

Mr. CLAGETT, from the select committee, to whom was referred the petition of John Fair-

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field, as also the petition of Mehitable Cole, made a report on the said petition, which was read; when, by leave of the House, Mr. C. reported a bill, granting to Mehitable Cole the land therein mentioned; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON, of Kentucky, from the Committee on Military Affairs, reported a bill respecting invalids; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON also reported a bill for the admission of cadets into the Military Academy; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON also reported a bill for the relief of William B. Lewis; which was read twice, and committed to a Committee of the Whole.

Mr. JOHNSON also reported a bill concerning widows of the militia; which was read twice, and committed to a Committee of the Whole.

Mr. MOSELEY, from the select committee to whom was referred the petition of Andrew Law, by leave of the House, reported a bill authorizing the renewal of a patent heretofore granted to Andrew Law; which was read twice, and committed to a Committee of the Whole.

*Ordered*, That the letter of the Secretary of War, received on the 20th instant, transmitting sundry statements and other documents in relation to the execution of the act for the payment for property lost in the late war, be referred to the Committee of Claims.

Engrossed bills of the following titles, viz: "An act making appropriations for the support of the Navy of the United States for the year 1818;" and "An act altering the time for holding the district court for the district of Virginia"—were severally read the third time and passed.

On motion of Mr. HUNTINGTON, the Secretary of War was directed to lay before the House a copy of all contracts made for furnishing rations to the troops within the State of Georgia, for the years 1817 and 1818; that he also inform this House whether any demands for rations in advance hath been made during said term, and if so, whether said demand has not been complied with; specifying the time when, and by whom the said demand was made, and the place at which said rations in advance were directed to be deposited. And also give information whether any advances in money have been made by the War Department to enable the contractor to comply with said demands for rations in advance, and the amount of money advanced, and the time when; and give such further information, if within his knowledge, as will enable the House to judge correctly respecting the failures which have taken place by the contractors during the aforementioned period.

#### OUR RELATIONS WITH SPAIN.

Mr. FORSYTH, in rising to offer the following resolution, adverted to the documents communicated to the House by the Executive, from time to time, on the subject of our negotiations with the Spanish Government, and observed, that it

would be seen by these documents that attempts had been made, by negotiations at Madrid and with the Spanish Minister in this country, to bring the matters in dispute with that Government to a final settlement, but it had always been evaded by the Spanish Government. The House had been informed by the President that a negotiation was then pending in Washington, and it was very important, Mr. F. thought, the House should be informed of the result, or the state of that negotiation. For his own part, Mr. F. said, he was perfectly tired of negotiating on our differences with Spain. There had been ample time for each Government to know its determination on the subject, and it was time to know what prospect there was of its termination. Mr. F. then submitted the following resolution, which was agreed to without opposition, and a committee appointed to communicate it to the President:

*Resolved*, That the President of the United States be, and he is hereby, requested, if in his opinion it is not inconsistent with the public interest, to lay before this House so much of the correspondence with the Government of Spain as will enable Congress to judge what ground there is for expecting an amicable and speedy adjustment of the differences between that Government and the United States.

#### DUTIES ON IRON.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting two statements respecting the importation of sundry species of iron, in obedience to a resolution of the House of the 13th instant; which was read, and ordered to lie on the table. The papers are as follow:

The enclosed papers are submitted to the consideration of the Committee of Ways and Means, who can, if judged expedient, add a clause to the bill for amending the collection laws, in conformity with the suggestions of the Attorney General.

WM. H. CRAWFORD.

FEBRUARY 5, 1818.

The Attorney General will have the goodness to inform me whether the opinion given upon the questions presented in the within letter is correct.

If the iron proved to be different from what it was represented to be, would it not have been liable to forfeiture, especially upon the party's availing himself of the mistake to the injury of the Government?

WM. H. CRAWFORD.

NEW YORK, Feb. 3. 1818.

SIR: Permit me to state, for the consideration of the Secretary of the Treasury, that several cases have recently occurred in this district, which indicate a defect in the existing laws for the collection of duties. Several cases have lately happened, and the bonds sent to me for collection, in which the penalty of the bond is insufficient to cover the amount of duties liquidated and ascertained as due the United States. The existing laws require one suit only to be brought against both the principal and surety. The proceeding is joint against both, and they plead jointly for their defence, that at the time the bond became due and payable, the amount mentioned in the condition of the bond was

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tendered to the collector. The fact was so, and I dare not take issue upon it. I have lately discontinued two suits upon this state of the pleadings, where the penalty of the bond in each case was \$600, the condition \$300, and the duties liquidated at \$800. No want of attention could be attributed to the officers of the customs, for the entry was of hammered iron; but, upon unlading the iron, it was found to be rolled instead of hammered, and liable to a high instead of a low duty. The only remedy in this case is, to prosecute the importer for the difference in a special action; and this remedy is ever very questionable. It has been decided in the circuit court of the United States for the first circuit, by Judge Story, that the obligors to a custom-house bond have their election either to pay the sum mentioned in the condition, or the liquidated duties, and that this alternative is for their benefit. (*The United States vs. Thompson et al.*, 1 Gallison, 388.) The supreme court of this State has decided, that upon the acceptance of the custom-house officers of a bond for duties, the claim of the United States is confined to the bond, which extinguishes all other claims for the duties. (*Tom vs. Goodrich et al.*, 2 Johnson's Rep., 213.) If these rules of law are correct, the United States are without remedy in the cases I have stated. It is certainly but reasonable that the alternative in the condition of the bond should be for the benefit of the United States, and that the obligors should be bound to pay either the sum mentioned in the condition, or the amount of duties, (at the option of the United States,) to be ascertained as due, and arising on the merchandise entered, &c. I apprehend that both of the decisions to which I have referred would be deemed law in the courts of the United States in this district, and preclude the United States from recovering the real amount of duties due, either in a suit upon the bond, or in an action against the importer; first, because the parties to the bond have tendered the amount specified in the condition; second, because, having received at the custom-house a bond for the duties, the claim of the United States must be confined to the bond.

I have the honor to be respectfully, sir, your most obedient servant.

JONATHAN FISK.

Hon. W. H. CRAWFORD, *Sec'y of the Treasury.*

WASHINGTON, February 21, 1818.

SIR: I have not been in a hurry to answer your questions on Mr. Fisk's letter, (which is now returned,) because it relates to no specific case which requires despatch, and because I was anxious to learn from the judges of the Supreme Court the course of adjudication in their respective circuits on the questions growing out of it.

Mr. Fisk states correctly the points decided in the cases which he cites, and I cannot learn that they have been differently decided. The law, I think, had better be amended; but, instead of wording the condition of the duty bond in the old form, and giving the United States the option of taking either the sum expressed in the condition of the bond or the real amount of duties, let the penalty be set at a sum which shall be certainly sufficiently large to cover the amount of duties; and let the condition (naming no sum) be to pay the amount of duties as they shall be ascertained at the custom-house on unlading the ship. This proposition is the result of a conference with the Chief Justice.

The particular kind of iron not being included in the manifest is, in my opinion, forfeitable under the law as it now stands.

I have the honor to be, sir, with the greatest respect and esteem, your obedient servant.

WM. WIRT.

Hon. Wm. H. CRAWFORD.

### THE BANKRUPT BILL.

The House then again resolved itself into a Committee of the Whole on the Bankrupt bill.

Mr. SPENCER moved to amend the first section, by striking therefrom the words "*merchant and other*," and subsequent parts thereof, to make it conform to the first alteration. The object of his motion was to deprive the bill of its partial feature, to make its provisions general to the community, and to embrace all other classes as well as the mercantile; and Mr. S. proceeded to submit his reasons at length, for desiring to include the agricultural and manufacturing parts of the community—particularly the latter—and his objections to a bill embracing the mercantile class alone; incidentally dwelling on the necessity of some general and uniform law on the subject of bankruptcy.

Mr. BEECHER thought the amendment inexpedient—particularly to the full extent it contemplated—though it might not be improper to apply the bill to the manufacturing part of the community; and in illustration of these opinions, and of his ideas in favor of a general system of bankruptcy, he argued at some length.

The question was then taken on Mr. SPENCER's motion, and decided in the negative.

Mr. SPENCER then moved to insert after the word *merchant* the word *manufacturer*, for the purpose of extending the application of the bill to the latter class of the community; and stated his intention, in case his motion prevailed, to move to enlarge to five thousand dollars the debt necessary to entitle a creditor to apply for a commission of bankruptcy; which extension would remove the objection that the admission of manufacturers would include a number of petty artificers, not contemplated by the bill.

To this, Mr. HOPKINSON replied, in substance, that this extension of the debt, to include manufacturers, would exclude many traders whom it was the object of the bill to relieve.

The question was then taken, and the motion negatived, without a division.

Mr. CLAY rose, and observed that he had, on Friday last, voted against striking out the first section of the bill; and if he supposed that by one or two weeks' discussion the House could agree on a bill useful to the country, he should be willing to proceed, and devote that time to the measure. But, after the experience of Friday last, Mr. C. confessed that he feared all the labor which could be bestowed on the bill would be thrown away—particularly since the decisions which had just taken place on the modifications proposed by Mr. SPENCER. This opinion he offered as an apology for the motion he rose to make, which was to reconsider the vote on striking out

the first section, that the sense of the Committee might be ascertained on the principle of the bill, after it had decided to retain the feature just moved to be expunged.

The motion to reconsider the vote of Friday was agreed to—ayes 69, noes 58; when

Mr. CLAY, for the reasons before stated, renewed the motion to strike out the first section of the bill.

This motion was decided, without debate, in the negative—ayes 63, noes 66. By a second count, the ayes were 68, the noes 71.

Mr. WILLIAMS, of North Carolina, believing, notwithstanding the vote just taken on the first section, that there would ultimately be a majority of the House against the bill, and for the purpose of ascertaining by the yeas and nays the true sense of the House at once, he moved that the Committee rise, that it might be refused leave to sit again, and the question then decided in the House.

Mr. MERCER opposed this motion, and took occasion to express his disapprobation of the course pursued on this subject, in aiming to destroy the bill in the outset by moving to strike out the first section. It was always allowed by parliamentary justice and parliamentary courtesy to the friends of a measure to make it as perfect as they could before the sense of the House should be taken on the principle of the proposition. On this occasion, he believed that there was a majority of the House against the bill, and he was therefore surprised to learn the result of the vote on Friday on striking out the first section. For his own part, he was not ashamed to confess that his opinion had been changed on this subject, by the able and conclusive arguments which had been urged by his friend (Mr. HOPKINSON) in its favor. The friends of the bill ought not to despair, therefore, and he hoped they would be permitted to proceed in maturing the measure.

Mr. CLAY remarked, that his object in the course which he had taken was the economy of the time of the House. It was true, that all the indications disclosed of the sense of the House were in favor of the bill; but if any course could be adopted to save materially the time of the House, it was fair to try it on this measure; because, if it were taken up regularly, and the whole sixty-four sections discussed, which would consume one or two weeks, it was very probable that the bill would be lost by the variance of opinion on some of its important details. Mr. C. enumerated some of the provisions on which probably an invincible difference of opinion would exist, and particularized the feature which requires the consent of two-thirds of the creditors, which he thought incompatible with the only principle that justified the passage of a bankrupt law at all, which was to relieve a man from his creditors on his surrendering all his property, and restoring him to society. This and other provisions would, he was confident, consume much time, which, after all, he expected would be to no purpose; and for this reason he had endeavored at once to anticipate the final decision.

Mr. HOPKINSON said the bill had stood the shock of the vote to strike out the first section, and the Committee had decided to go on, and see if they could not agree on some system for this important object. He was as unwilling as any one to consume uselessly the time of the House, but he was opposed to a premature rejection of the measure, particularly after the repeated refusal of the Committee of the Whole to strike out the first section. As to the provisions which had been referred to, it would be time enough when those features were acted on to see whether the Committee would agree on them to any practicable purpose, and then act accordingly. He suggested therefore the propriety, if it could be done, of first bringing up the provisions alluded to, that the sense of the Committee might be obtained, and see whether it would be worth while to proceed with the other details.

Mr. WILLIAMS having previously withdrawn his motion for that purpose—

Mr. TUCKER, of Virginia, in accordance with the suggestion of Mr. HOPKINSON, moved that the Committee by general consent agree to take up first for consideration the thirty-sixth section of the bill, (which provides for the permanent discharge of a bankrupt from all debts contracted previously to his bankruptcy, having surrendered all his property to his creditors, &c.)

Mr. BARBOUR having intended, when this feature of the bill should come up for discussion, to offer some remarks on it, but unwilling to trouble the Committee at so late an hour of the day, hoped (if it was the intention of the friends of the bill to argue this provision at all) that the Committee would now rise.

The Committee, on motion of Mr. TERRY, then rose, reported progress, and, after some opposition thereto, obtained leave to sit again.

Mr. EDWARDS then, for the purpose of trying conclusively the sense of the House on this subject, moved that the Committee of the Whole be discharged from the further consideration of the bill, and that it be indefinitely postponed.

Before this question was put, on motion made, the House adjourned.

### WEDNESDAY, February 25.

Mr. LITTLE presented sundry resolutions of the General Assembly of the State of Maryland, upon the subject of the defence of the maritime frontier of that State, and offering to cede to the United States, free of expense, any portion of their territory upon which it may be determined to establish a naval depot.—Laid on the table.

Mr. HUGH NELSON, from the Committee on the Judiciary, reported a bill more effectually to provide for the punishment of certain crimes against the United States, and for other purposes; which was read twice, and committed to a Committee of the Whole, to-morrow.

Mr. ROBERTSON, of Louisiana, from the Committee on Public Lands, to which was referred the bill from the Senate, entitled "An act providing for the sale of certain lands in the district of



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Marietta, and for the location of claims, and sale of certain lands in the district of Vincennes," reported the same without amendment, and it was ordered to be read a third time, to-morrow.

Mr. ROBERTSON, from the same committee, also made a report on the petition of sundry inhabitants of the Prairie du Chien, which was read; when, Mr. R. reported a bill for the relief of the inhabitants of Prairie du Chien, which was read twice, and committed to a Committee of the Whole.

Mr. ROBERTSON also reported a bill for the relief of William Barton, which was read twice, and committed to a Committee of the Whole, to-morrow.

Mr. LOWNDES, from the Committee of Ways and Means, made a report on the petition of Benjamin Pool, which was read; when, Mr. L. reported a bill for the relief of the said Benjamin Pool, which was read twice, and committed to a Committee of the Whole, to-morrow.

Mr. LOWNDES also reported a bill supplementary to an act, entitled "An act to regulate the collection of the duties on imports and tonnage," passed the 2d of March, 1799; which was read twice, and committed to a Committee of the Whole.

After referring to the inconvenience often experienced by Committees of the House, particularly that of Elections, from a want of the statutes of the respective States, Mr. TAYLOR of New York, moved the following resolution, which was agreed to:

*Resolved*, That the Clerk of the House procure a copy of the last edition of the statutes of the several States, to be kept in his office, for the use of the members.

On motion of Mr. HUBBARD, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of placing Oliver Pilsipher, late a private in the 76th regiment of New York militia, on the pension list.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to alter and amend an act, approved the 3d day of March, 1817, entitled 'An act to establish a separate territorial government for the eastern part of the Mississippi Territory,'" in which they ask the concurrence of this House.

The said bill was read twice, and committed to the Committee on the Judiciary.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting a report of the Commissioner of Claims, in answer to the resolution of this House of the 13th instant; which was read, and referred to the Committee of Claims.

#### CREDIT FOR LANDS TO EMIGRANTS.

Mr. ROBERTSON, from the Committee on the Public Lands, made an unfavorable report on the petition of the Irish Emigrant Society, of New York, Philadelphia, Baltimore, and Pittsburgh, which was read and ordered to lie on the table.

The report is as follows:

The Committee on Public Lands, to whom was referred the petition of the Irish emigrant associations of N. York, Philadelphia, Baltimore, and Pittsburgh, have had the same under consideration, and report: That the petitioners ask that a portion of the public land lying in the Illinois Territory, may be set apart for the purpose of being settled by emigrants from Ireland, to whom it is requested the lands may be sold on an extended credit. For the reasons urged in favor of this application, the Committee refer the House to the petitions themselves.

The following specific propositions were also submitted to the consideration of the Committee by the agents of the petitioners, viz:

1. That the Secretary of the Treasury should be authorized to designate and set apart — townships, each of six miles square, in the Illinois Territory, east of the military bounty lands, each alternate section thereof to be settled by emigrants from Ireland, and sold to them at two dollars per acre, on a credit of four years for one-third, eight years for one-third, and twelve years for the last instalment, with interest upon the several sums.

2. That the Secretary of the Treasury should be at liberty to reject applications, unless the applicant emigrants should be satisfactorily recommended to some of the Irish Emigrant Associations, as moral and industrious men.

3. That no contract should be made with any emigrant, unless he would engage to improve at least twenty, of each one hundred acres, and erect a tenement suitable for his abode.

4. That no contract should be binding upon the United States, nor title vest in any emigrant settler, unless he had made the improvement and settlement abovementioned, and fully paid for the land contracted for.

5. That no contract should be made, or patent issued, to any settler or his heirs, for more than six hundred and forty acres.

6. That in every instance in which the conditions of improvement, settlement, and payment should not be complied with at the expiration of the term of twelve years, the Secretary of the Treasury should cause the lands so forfeited to be sold, for the benefit of the United States: provided, that in every case in which payment in part had been made, the sum or sums paid should be refunded to the emigrant settler or his heirs.

The Committee refer to their reports on several analogous cases, some of which have been sanctioned by the House, others which still lie on the table, for the reasons that induce them to recommend the following resolution:

*Resolved*, That the prayer of the petitioners ought not to be granted.

#### BANKRUPT BILL.

The House then again proceeded to the consideration of the Bankrupt bill.

The question being on Mr. EDWARDS's motion, to discharge the Committee of the whole House from the further consideration of the bill, and to postpone it indefinitely.

Mr. WHITMAN, of Massachusetts rose. In the section of country, said Mr. W., in which I live, a very considerable number of unfortunate merchants are looking with great anxiety for the adoption of a measure similar to that now under

consideration. This being the case, I cannot reconcile it to a sense of duty to suffer this bill to be rejected without an effort, on my part, to contribute my mite towards, if possible, a better understanding of the subject.

The merchants, generally, throughout the Union, may, undoubtedly, be considered as soliciting this measure. The benefits to be derived from it are, in the first instance, to be felt by them; and the pains and penalties to be suffered are exclusively confined to them. Of these pains and penalties, however severe, the merchant does not complain. Yet it is on the severity and novelty of these penalties that some gentlemen have grounded their opposition. But the merchant makes no such objection. The honorable gentleman (Mr. SMITH) from Maryland, who may, emphatically, be styled the representative of the merchant upon this floor, makes no such objection. Why, then, should these penalties have such terrors for other gentlemen whom they do not and never can affect?

But this law, it is said, is to confer peculiar privileges upon a particular class of men. Be it so. I grant it. But, sir, these privileges, if conferred, would injure no other class. If they would, I should hesitate. On the contrary, in my opinion, the conferring these privileges will ultimately tend much more to the benefit of the public than the merchant. It is, sir, the agriculturist that will finally reap the benefit of this measure. I agree that the agricultural interest in this country is paramount to all others; and above all ought to be cherished. It is from the agriculturists that we derive the articles of primary importance and necessity. This class of men composes at least nine-tenths of the population, and the most worthy population of our country. Their interest is, therefore, in whatever we may do, to be first consulted.

But, sir, it may be laid down as a fixed principle, of which there can be no doubt, that whatever encourages commerce is beneficial to agriculture. They go hand in hand. The matrimonial connexion itself, is not more intimate than is this union between commerce and agriculture. If the husband flourishes and becomes affluent, his wife participates of his good fortune—if otherwise, she becomes a drudge and a slave. And it is so with the merchant and the farmer; when the former is prosperous and acquires wealth, the condition of the farmer is ameliorated. If the merchant is unsuccessful, the farmer can have no ready market for his surplus produce. The consequence is that he cannot avail himself of funds wherewith to increase his comforts and conveniences; he cannot erect and finish new buildings; he cannot hire and pay laborers; he cannot improve and render permanently better the farm he occupies. Necessaries he may get; but he must labor under every disadvantage. It is not so when commerce flourishes; he then gets a high price for everything he can spare; he can then march forward with a sure and steady progress to wealth and ease. His taxes are paid, his farm improved,

his buildings repaired and adorned, his family educated, and the beauty and prosperity of the country generally promoted.

Hence it becomes our duty to do everything in our power for the encouragement and protection of the merchant, with a single eye to the prosperity of the agriculture of our country. If experience were necessary to convince the people of this truth, we have had it abundantly. Whoever will look back to the period anterior to the embargo of December, 1806, and contrast the state of things which then existed, with that which followed, will see how essential the commercial is to the agricultural prosperity of our country. Before that time the commerce of this country was unparalleled. The like of it was never before witnessed. The consequence was, that wealth and prosperity were diffused throughout our country. Our country towns and villages grew and flourished. The eye of the traveller was everywhere regaled with the view of increasing industry and prosperity.

On the adoption of the restrictive system (of which it is not now my purpose to complain, it may have been wise) the scene was changed. The merchant, alone, felt the first shock; but its influence finally reached the farmer; and though its approach to him was more slow, it was on the whole not less severe. It blasted his prospects. It did not overwhelm and plunge him in utter ruin, as, in many instances, it did the merchant. But its influence crept upon him gradually and unperceived, and blasted and blighted his future prospects. His farm no longer exhibited marks of improvement. Did his house or his buildings need reparation, they must, nevertheless, remain as they were. Travel where you would, everything wore a gloomy and sickening aspect. Before this time the farm itself, independent of any improvement, had gradually increased in value. But under this depression of commerce it depreciated. And finally, no class of the community felt more sensibly this retrograde movement in the affairs of our country than did the farmers themselves.

Hence, we see the intimacy in the connexion between the prosperity of the merchant, and the prosperity of our country. It becomes us, then, by every means in our power, to encourage this class of our citizens. Whatever regulation we can make for that purpose we are bound in duty to make. Be it for the benefit of the merchant, in the first instance, it will, nevertheless, turn out finally, to be for the general benefit of our common country.

But, sir, the merchant is entitled to this regulation from the peculiar nature of his liability to misfortune. If the merchant is overwhelmed, it is in the nature of his business that it should be from unforeseen accident, and also sudden. Not so with the farmer or planter. Their ruin is, almost always, gradual, and from known causes, within their control. Their capital consists in real estate, which nothing short of an earthquake or some other violent concussion of nature, which seldom or never happens, can affect or

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destroy. It is the income only of the farmer that is at all precarious. On the other hand it is the merchant's capital that is at all times at hazard. Every effort of the merchant is surrounded with danger; the very basis on which he stands is every moment liable to be swept away.

Gentlemen have said the merchant may insure. So indeed he can as to some risks, but not as to all. He may insure against sea risks and capture. But are these all the risks to which the merchant is liable? Indeed they are not. The risks which overwhelm him are more frequently, and almost always, those against which he can have no insurance. A merchant, in shipping a cargo to a foreign port, must make the best calculation he can upon the market there; and, after all, he may be utterly deceived. Though from the last advices the market may be good, yet, before his cargo will reach them, some great political change, or some embargo or restrictive system there, or the sudden influx of property of the same kind to that market, may ruin the voyage. Again, the merchant to whom the cargo may be consigned for sales and returns may fail with the whole proceeds in his hands. The master of the ship, cargo belonging to the owner, may be guilty of barratry and run away with, or convert the whole, fraudulently, to his own use. Again, the cargo from a foreign port shipped in return, in coming to a port in this country, may from want of judgment or a change in events come to a bad market. We cannot be insensible to the risk our merchants have been subjected to from, perhaps, the wise and necessary measures of our own Government. If we recur again to the embargo of December, 1806, we shall have an instance of this the most oppressive. The course of trade before that time, among exporters had been to purchase up, in the Fall, after harvest, the products of our country, and store them for exportation. As the ships of the merchant, then out, arrived, or as he could procure others, this produce, in the course of the ensuing year, would be exported.

At the time of laying the embargo, in 1806, which was late in December, the products of the country had been thus purchased, and were on hand. To raise funds to enable the merchant to pay for these products, he had been in the habit of drawing bills of exchange on the merchant in Europe to whom these products were to be sent, payable at such future periods, to wit, at sixty or one hundred and twenty days after sight, as the merchant would suppose to be sufficient to enable him to send out his cargoes to meet them. These bills were negotiated in the market for cash; and with this cash the merchant paid for his produce. The bills were then remitted to the merchant abroad on whom they were drawn. The merchant who drew them, then, set himself to work to set forward his cargoes. Before he got them off, however, in 1806, and, in many instances, even after his vessels were loaded, the embargo was laid and enforced. The consequence was, that the bills, after being kept till due, were returned, protested for non-payment. They then

became payable in this country, with the addition of — per cent damages, besides interest and costs. The property, at the same time, with which those bills were to have been paid, instead of having gone to a market where it would have afforded a profit to the merchant, had remained on hand, and had fallen fifty per cent. in value. His ships, also, instead of earning him money, were rapidly decaying at the wharf. The consequence was, that this class of merchants, the most valuable to the agricultural interest, from one end of the Union to the other were sunk in irretrievable ruin. Much the same was the case with the merchant engaged in the circuitous trade of importing and exporting foreign merchandise. The nature of this trade rendered it unavoidable that the merchant should have constantly on hand store-houses full of foreign commodities to be exported. For this he was generally indebted. It was unavoidably incident to large commercial enterprises that it should be carried on upon extensive credit. This class of merchants, as well as the former, were caught with their goods and their ships on hand; and, while their ships were running to destruction, their goods were reduced to one half the original value. This description of merchants, generally, fell a sacrifice also. Here, then, we see a series of risks, against which no human foresight could have provided, and against which there could be no insurance, and to which the failures in ninety-nine cases in a hundred which have happened in the United States, are to be solely attributed. A set of merchants of as much enterprise and of as fair reputations as ever existed in any country, have fallen victims to the measures of our own Government. Is it not due, then, from this Government to liberate them, if possible, from a portion of the misery which has thus been brought upon them? Their property cannot be restored to them, but they can be rendered free agents; they can be set at liberty and left to their own personal exertions. They can be restored to usefulness, to their families and to their country.

The state of things now existing in the different States in the Union demands this interference of the Legislature of the Union. The merchants throughout the world are one great family, having intercourse and connexion with each other. A law common to them all is highly desirable. Hence it is, that we hear of the law merchant, which already exists in several particulars in relation to this class of men throughout the civilized world. It is our duty, at least, to produce as much of a uniformity throughout the United States as possible. Our merchants, from one end of the Union to the other, have a constant intercourse with each other. How important, then, is it that we should have but one code of laws for their regulation? We all wish to diminish the risks to which they are subject, as much as possible. If the laws should be the same throughout the Union, they would be enabled to predicate their calculations accordingly. As it now is, a merchant in one State knows not what to expect in case of the failure of his correspond-

ent in any other State. In some States there are insolvent laws, in others there are none. In some States the body is exempted from arrest and the property subject to attachment; in others the body is liable and the property not. And in every State those nearest the insolvent secure their debts wholly, while those at a distance get nothing. Hence it is, that confidence between merchants in different parts of the Union is impaired. If the system now in contemplation should be adopted, it would be otherwise. The distant merchant would know the ground on which he stood, as well as the merchant near at hand; he would feel assured that, at any rate, he should get something for his debt; that it would not be a total loss.

It is objected, that the debt of the merchant to the farmer is to be discharged; whereas, the debt which a farmer might owe a merchant would not be. This is no objection to the bill. The farmer will thus have a privilege conferred upon, rather than injury done him. The farmer lives remote from the commercial town in which his merchant is always to be found. When a merchant fails, his endorsers, and sureties, and friendly creditors, are always about him, and secure his whole effects; and the farmer, in every instance, sustains a total loss; he does not know of the total failure till the property is all gone. Pass this law, and it would be otherwise; the farmer would stand as good a chance as the most favored creditor or security; he would come in for an equal dividend. Now, sir, would this be no privilege worth securing to the farmer? And could he not, for the sake of it, afford to give up a worthless chance against a debtor, who had been stripped of everything?

This system will, like every other, undoubtedly be abused; there is no human regulation that will not be. Fraud will be practised. Make what regulation you will, attempts will be made to evade it. The restrictive system was productive of more fraud and perjury than any other ever adopted in this country. The possibility of abuse is no argument against any measure. The question should be—will the measure, on the whole, be productive of benefit? What will be the situation of the merchant without this regulation? He will be compelled, from necessity, to commit fraud. It is not in human nature to resist the impulse to it. Even our religion teaches us, that he that will not provide for his own, is worse than an infidel. If a merchant foresees that his ruin is approaching; that he has no hope to save himself and his wife and children from misery and beggary, but by secreting as much of his property as possible, and placing it where he can command it as his necessities may require, can we expect that he should refrain from doing it?

But, sir, the great objection to this bill is, that it will exonerate the debtor, after he is divested of every cent of property, and after an equal distribution of it among his creditors, from further liability. Without this principle in the bill, it would be utterly useless. A demand against a

man who had been deprived of his utmost farthing, would be worse than useless. It would, as has been well remarked, be the very cause why the debtor could never afterwards acquire any property, with which to make further payment. If there was property that he might otherwise inherit, this circumstance would induce the debtor to so contrive it that no creditor should ever avail himself of a particle of it. Go into merchandising he could not, because visible property is essential to carrying it on, and this the creditor would instantly seize. This naked claim against a naked debtor, would only enable a creditor to gratify a vindictive and vile disposition. I am, sir, astonished at the quarter from which the opposition to this feature in this bill, has come. We find almost the whole delegation of a certain section of the Union, arrayed in solid column against it. "Once a debt, always a debt," is their maxim. Really, sir, I had thought that the peculiar characteristics of gentlemen from this quarter, were liberality, humanity, and generosity. Little did I think to hear of this maxim as a governing principle with them. Where do they find this maxim? Is it in their political institutions? I never before heard of anything like it in any part of the Union. Is it in the religion we profess? No, sir; in that we are commanded not only to forgive seven times, but seventy times seven. Will these gentlemen expect the Great Judge, at the final retribution, to say to them, "once a debt, always a debt," and hold them to account accordingly? If not, I would put it to them to consider whether it would not be best to begin here to practise a little of that doctrine which may at last be found more suitable to their condition.

Finally, I would beg gentlemen to revise their objections to this bill, and see if they really ought to defeat its final passage.

Mr. BARBOUR, of Virginia, said that he felt a disposition to offer to the consideration of the House some of the reasons which would induce him to vote for an indefinite postponement of the bill. He said that he had risen at an earlier stage of the discussion, with an intention of going into the question at large; but having been at that time anticipated by another gentleman, and many of the general views which the subject presented having been since noticed in debate, he should now confine his remarks principally to the provisions of the thirty-sixth section. He was the more disposed to pursue this course, because the friends of the bill had distinctly declared that they considered this section as of its very essence, and that if it were not retained, they did not consider the residue as worthy of their acceptance. Since, then, the fate of the whole measure was identified with that of this section, if he could show that it contained a principle which ought not to be sanctioned by this House, it would be sufficient to sustain the motion for indefinite postponement; for, he would ask, to what purpose shall we continue to debate upon the bill, or proceed in the modification of its details, if one of its provisions be such as to prevent its final passage?

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The thirty-sixth section declares, that when a bankrupt shall obtain a certificate in the manner prescribed, he shall be entirely discharged from all his previous debts and contracts. The propriety or impropriety of this section, then, is resolvable into a single inquiry, namely, is it right or just, under any circumstances, for a Legislature, in regulating the relation between creditor and debtor, to absolve the latter from the obligation of his contracts, or to exempt his property from liability to the fulfilment of them? He did not deny that Congress had power to enact the provision in question; that is to say, there was no written Constitutional prohibition; but we were under the same limitation as all other Legislatures, and as we ourselves were upon all other subjects, it was our bounden duty to exercise a sound discretion, and so to legislate as to enforce the observance of the principles of good faith and the dictates of justice. It was because he thought that this section of the bill, though certainly not so intended, put it into the power of those who were so disposed, to act in violation of those principles, that he was decidedly opposed to it, and he would now proceed directly to state his reasons for this opinion.

There are two descriptions of promises by which we impose upon ourselves an obligation; the first is, where we promise something, without the expectation of an equivalent; this is in its very nature, a gratuity, a benevolence. True it is, we give to the person to whom it is made, a right to expect a performance; but it is an imperfect right, and our obligation is imperfect also, for rights and obligations are always correlative; of consequence, these are neither the subject of municipal regulations, nor of judicial cognizance. The other kind of promises is directly the reverse of this; they are founded entirely upon the expectation of an equivalent, or something in return; their language is this: in consideration of a given portion of your labor, or your property, I oblige myself to pay you so much, as is estimated by us both to be the value of that which I have received. Whenever, therefore, the terms creditor and debtor are mentioned, this idea at once presents itself, that the one cannot be creditor without having parted with something valuable; that the other cannot be debtor without having received something valuable. If then we, by legislative enactment, discharge the debtor from his contract, it amounts to this: we, by compulsion, convert a contract intended to be founded on an exchange of equivalents into a gratuity in favor of the debtor; we leave in his possession what he has received, and which, having been received by him, is beyond the control of the law, and we put it into his power to refuse to pay what he had promised to the creditor, and without the expectation of which the contract would never have been made; in a word, we force an individual to be charitable against his will. He would exemplify his idea upon the subject by stating an individual case: a merchant, in consideration of produce purchased, agreed to pay the farmer one thousand pounds,

having received property of that real value; he becomes bankrupt, and his then estate pays only fifty per cent. of his debts; the farmer, then, receives only five hundred pounds where he had contracted for a thousand; what becomes of the remaining five hundred pounds? The merchant is discharged from it; the farmer loses it; and, therefore, the effect of the law operating upon this transaction is, that the seller is made to take one-half of the value of his property; one-half of what the buyer promised to give, and without which promise he would not have gotten the property.

This was surely an act of injustice, inasmuch as it was a violation of the perfect right of one of the parties, to demand the whole of what was due to him by a bona fide contract. What are the reasons offered in support of this principle? It was said that humanity and policy conspired to recommend its adoption; that as it respected the individual, after he had given up his all except the pittance which was allowed him, it was cruel to keep him borne down by the pressure of enormous debts which he could not pay; and that, as it respected society, an emancipation from those debts was necessary, in order to restore to society one of its members in a situation to be useful. If this provision had gone no further than the relief of the bankrupt's person, he would admit the force of the argument founded on the principles of humanity; for the law ought never to be made use of as the means by which to gratify the caprice, the malignity, or any other improper feeling of one man towards another; and as the confinement of the debtor's person, not only did not in any degree contribute to the payment of the debt, but on the contrary put it out of the debtor's power to make any efforts whatever towards the attainment of that object, it might fairly be urged that the deprivation of human liberty, under these circumstances, when no correct motive could be assigned, was so much causeless harm, which the law should not permit to be inflicted. But none of this reasoning applied in favor of the exemption of property from liability. It never could be said, with any propriety, that there was anything wrong or oppressive on the part of the creditor, in endeavoring to procure either the whole or part of the equivalent which his debtor had promised for something valuable which he had received; and, considering it as an act of humanity, he would ask, whether it was not more proper for the debtor to depend upon the will of the creditor for some indulgence, some act of mercy, than to reverse their situations, and make the creditor depend upon the debtor for an act of justice? To decide otherwise would be to subvert the very foundation of the principles of legislation; and to take care of imperfect rights, not only in preference to, but at the expense of perfect rights.

But, say gentlemen, policy demands it. He would remark, in the first place, that arguments of policy must be extremely strong, indeed, when the object in view is to be effected at the expense of justice. But let us examine them: It is said

that when a man knows that every cent which he may make will be at the mercy of his creditors, he will feel no motive to exertion. In answer to this he would say, that with an upright and honorable man a desire to pay his debts would be a strong motive; with one of a contrary character, indeed, it could not operate. Men of the first kind would discharge their debts if ever they became able; those of the other would not, let them acquire ever so much property. This provision, then, it seems, would be of no avail, except in favor of the very description of persons who ought not to be benefited by it. The man of integrity would not need it; his creditors, knowing his character, and seeing his exertions, would give him every reasonable indulgence; the man of a contrary character, ought not to have it in his power to put his creditors at defiance, though he may afterwards acquire abundant means to discharge their debts. But, further, it would hold out a temptation to this latter class to commit some act of bankruptcy, when, by great and continued exertions, they might have paid their debts to the utmost farthing; for, sir, such a man would reason thus: If I prosecute the business in which I am engaged, the whole fruits of my labor will be for the benefit of my creditors, and, after years of industry and toil, I may just be able to pay them; if, on the contrary, I avail myself of the benefit of the bankrupt law, I may with one dollar pay two, procure a quietus from my creditors, and the future efforts of my whole life will be for my own benefit; and, peradventure, he may renew his business, not only with the pittance which the law allows him, but with some hidden capital, which, by the collusion of a friend, may be concealed from the knowledge of his creditors. Let not gentlemen say that this would be the case of a fraudulent bankruptcy, to which the benefit of the law would not extend; for, if he gave up all, according to the first idea suggested, it would be fair within the very words of the law. If he concealed a part, according to the other suggestion, by the collusive aid of some friend, that friend could now advance it to him, under the name of a loan, or some other such pretence, and the creditors would have no knowledge of the fraud, which would, therefore, in this respect, be the very same as if it did not exist. But suppose, for argument sake, it should be admitted that a person thus situated, should be so overwhelmed with the gloom of his own prospects, as to give up in despair, and make no efforts to meliorate his condition, then there arises another objection to this provision, which proves its injustice in the most striking manner. Many of the most numerous, as well as important classes of society, are utterly excluded from its benefit. Now, if we will only suppose the individuals who compose these other classes, to be equally stimulated by hope, and equally distressed by despair, with those who are embraced by the bankrupt law, it will be at once seen that we leave much the largest portion of the community in that hopeless state which gentlemen deprecate, with this aggravation, that

others are relieved whilst they are kept in a state of thralldom. If, then, the first view which he had taken of this subject were correct, this provision ought to be rejected, because, as a principle of abstract justice, it was wrong to exempt any part of a man's property from the payment of his debts, and because he thought there was no consideration, either of policy or humanity, strong enough to overrule that principle, as applicable to this subject. But, if gentlemen should differ with him upon this point, then this section ought to be rejected, because it afforded a relief to one member which it denied to another of the same community, when it might happen that the one to whom it was denied needed it only because of the failure of the one to whom it was extended.

It had been contended that there were other instances in which debtors had been discharged from their debts; and the acts of limitation were relied on in proof of the proposition; he said he utterly denied that they bore any kind of analogy to the question; they were founded upon this principle, that in the lapse of time parties might be deprived of evidence, either by the death of witnesses or the loss of vouchers, and that, in the happening of such events, claims might be supported which might otherwise be proven to have been paid; to obviate this, various acts of limitation have been enacted, declaring that after certain prescribed periods no recovery shall be had of debts which might originally have been just; but this proceeds expressly upon the idea that the debts may probably have been paid; the bankrupt law, on the contrary, recognises the debts as existing, by providing payment, as far as the present estate of the bankrupt extends; and though the debt is admitted not to have been paid, yet it declares that no property which the debtor may thereafter acquire, shall be liable to its payment; the marked and characteristic difference, then, between the case supposed and the one now under consideration, is this: that, in relation to the acts of limitation, we do not lose our debts in despite of us; we are at liberty to prosecute our suits within the times prescribed, and, if we do, the law interposes no bar to our recovery; the loss then, if any should ever occur by the operation of these laws, is chargeable upon ourselves; but, by the provisions of this section, if a certain proportion of the creditors consent, the other creditors are compelled by the law, whether they will or not, to lose their debts forever, except such parts as the present estate of the bankrupt may be able to pay.

He said there was a class of cases in which it was competent to legislate in relation to the obligation of contracts; such, for example, as those made by persons of insufficient capacity, those founded upon an immoral consideration, or such as were against public policy; but it would be observed that in all these, the law had relation to the moment when the contract was made, and declared that it never did have any legal validity; the parties in these cases were on equal terms; but the principle to which he had alluded was entirely different from the one embraced in



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the section now under consideration; because that section has relation to, and operates upon, contracts, the legal validity of which is in no degree called in question, and in which the parties are placed upon the unequal footing which he had mentioned in a former part of his argument—that is, that the creditor had parted with the equivalent on his side; and the law, unable to place him in *status quo*, by the restoration of that equivalent, yet comes in aid of the debtor, by absolving him from any future liability for his part of the contract. He believed that he might challenge the friends of this bill to show any instance in which the law, recognising the original validity of a contract, destroyed its obligation in consequence of any after state of circumstances, in which the creditor had no agency, over which he had no control, and without his consent.

He said he had now finished the view which he proposed to take of this particular provision; he hoped he had succeeded in proving, that if the House were determined to pass a bankrupt law, it ought not to contain this principle; the consequence was, that, as this was considered by its friends as the very soul of the system, and as, therefore, no valuable object could be attained by further inquiry into the details, it was better that the bill should at once be indefinitely postponed.

He said, before he resumed his seat, he would make a few remarks of a more general nature, in relation to the subject at large. It had been said, in the course of the debate, that, as this measure was loudly called for by one portion of the community, it ought to be accorded to them by those who were indifferent in relation to it, or who were not particularly interested in it. This remark would justly be entitled to weight, if those who demand this system were alone to be affected by it; but, sir, said Mr. B., it cannot be necessary for me to press upon the recollection of the House, that although the bankrupt is the more immediate object of the bill, yet its operation extends to all with whom he has entered into contracts; they may belong to every other class of our citizens, and therefore there is no man whose interests may not be affected by it, unless, indeed, the creditor has no interest in a law, which is to absolve his debtor from the obligation of his contract.

It is indeed true, that only one class of our citizens can become bankrupts under this bill, and that circumstance constitutes a very strong objection against it; it was of no importance, for the purpose of his argument, whether the bill was so framed, from the Constitutional necessity, as some had contended, of confining it to mercantile men, or whether it was from motives of policy; such was the bill, and we were to discuss it, as it was. Let us then examine the reasons assigned in argument, in favor of this discriminating feature. If they can be met and refuted; if it can be shown that there is no sufficient reason for the discrimination, then it will follow, that, as the gentleman insist it is a good bill for one class, it ought not to pass because it does not, and, as some think, cannot embrace the other

classes of society. It is said that merchants are peculiarly exposed, by the nature of their pursuits, to sudden and ruinous losses; that they commit all to the winds and waves, and that, therefore, they may be rich to-day and poor to-morrow. He said he admitted that commerce was a pursuit accompanied by many risks; but he would also say, that the merchant who at one time committed his all to the winds and waves, displayed a rash and too adventurous spirit of enterprise, and one which ought not to be encouraged by any facilities which a bankrupt system might afford. The prudent merchant not only guards against the improvidence of putting his whole capital afloat at once, but takes the further precaution of insuring that part, which he does put afloat; in these two considerations, which a common share of prudence would suggest, might be found a great diminution of the risk, which had been so emphatically described. But says the gentleman from Massachusetts (Mr. WHITMAN) there are risks which may ruin the merchant, which insurance does not reach. And he states the case of a merchant purchasing produce and shipping it to a foreign port, where, by various accidents, he may be obliged to sell it, at its original cost, or even at a loss. Let me, sir, present the other side of the picture. Suppose a contrary state of circumstances, and that he should sell at four or five times the original cost, does the farmer receive any share of this immense profit? He does not sir. He then who receives all the gain, cannot complain that he is to bear the loss. If he says that he encounters greater risk than those engaged in any other pursuit, the answer is, that, as his risk is greater, so his gain is also, and the possibility of the one is the equivalent for that of the other.

But, sir, gentlemen speak as if the farmer were exposed to no danger; he wished it was so, but unfortunately, it was far otherwise; he is exposed to the seasons, and to the effect of political circumstances. The experience of the last four or five years will furnish a practical illustration of each of these risks. In 1814 flour was sold in Virginia at two dollars and fifty cents; in 1816, a very unpropitious season curtailed the corn crop in an extraordinary degree; and for several years past, the wheat crop has been essentially injured, and in some instances almost destroyed.

In relation to the high eulogium which had been passed upon the merchant, their great utility to the country, and the immense sums which they paid into the Treasury, he would only say, that he did not pretend to deny their merits or their utility; he did not intend to go into a view of the comparative value of commerce, agriculture, and manufactures to the country; he would only say that they were all useful, and that of course the citizens who respectively engaged in these pursuits were all valuable members of society; but he supposed it would be admitted, that they each pursued that course which, in their opinion, their interest dictated; and that, in promoting their own interest, they advance that of the community also.

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Henry King.

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The friends of this bill have pressed another argument very urgently upon the House; they had said that under the insolvent laws of the several States, the grossest frauds were committed in paying off a few favorite creditors; that therefore it was absolutely necessary to pass this bill, by which the distribution *pro rata* would be made of the bankrupt's estate among all his creditors, and thus equal justice be done. He said, that, whatever frauds might have been practised under the insolvent laws, he thought he could prove that, even in that point of view, this bill did not furnish so effectual a remedy as was supposed; by looking into its provisions, it would be found that all payments which a bankrupt might make before an act of bankruptcy or even after he had committed the act, before the creditor knew of it, were declared to be good and effectual; and such a provision was indispensable; otherwise a person could never be safe in dealing with a mercantile man, if a subsequent act of bankruptcy were to destroy the legal effect of a previous transaction. Let us then suppose this bill passed, and a merchant, seeing his affairs to be in a state of decline, proceeds to pay off entirely a few favorite creditors, and a few days afterwards commits an act of bankruptcy; here, sir, is a complete system of favoritism; the debts, though due to a few individuals only, may take four-fifths of his whole estate, and yet, being paid before the act of bankruptcy, the payment is good; this bill then furnishes no effectual remedy for this great evil of preference to creditors. He said he would not detain the House further; he would conclude by observing that whether he considered the objections to the particular section which he had first remarked upon, or those that applied to the bill in general, he was brought equally to the conclusion, that the motion for indefinite postponement ought to prevail.

MR. LIVERMORE, MR. BALDWIN, and MR. BEECHER, then spoke in opposition to the motion to postpone the further consideration of the bill.

The House having refused to agree to a motion for adjournment, the question on the motion to postpone the bill indefinitely was taken by yeas and nays—yeas 82, nays 70, as follows:

YEAS—Messrs. Abbott, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bassett, Bateman, Bellinger, Bennett, Blount, Boden, Bryan, Durwell, Butler, Campbell, Clagett, Claiborne, Cobb, Comstock, Cook, Crafts, Crawford, Desha, Earle, Edwards, Floyd, Forney, Garnett, Hale, Hall of North Carolina, Herrick, Holmes of Massachusetts, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Wm. Maclay, W. P. Maclay, McCoy, Marr, Merrill, Morton, Mumford, Murray, Hugh Nelson, Nesbitt, Newton, Owen, Patterson, Pindall, Pleasants, Quarles, Rhea, Richards, Ringgold, Robertson of Louisiana, Sampson, Savage, Scudder, Settle, Shaw, Simkins, Slocumb, Ballard Smith, Alexander Smyth, J. S. Smith, Spencer, Stewart of North Carolina, Strother, Tarr, Terrill, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Upham, Walker of Kentucky, Wallace, Williams of New York, Williams of North Carolina, and Wilson of Pennsylvania.

NAYS—Messrs. Adams, Allen of Massachusetts,

Allen of Vermont, Anderson of Pennsylvania, Baldwin, Bayley, Beecher, Boss, Colston, Cruger, Cushman, Darlington, Ellicott, Ervin of South Carolina, Folger, Forsyth, Fuller, Hall of Delaware, Harrison, Hasbrouck, Herbert, Herkimer, Heister, Hitchcock, Holmes of Connecticut, Hopkinson, Hubbard, Huntington, Kirtland, Lawyer, Little, Livermore, Lowndes, McLane, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Mills, Moore, Moseley, Jeremiah Nelson, Ogden, Ogle, Orr, Palmer, Parrott, Peter, Poindexter, Porter, Reed, Rich, Robertson of Kentucky, Ruggles, Sawyer, Schuyler, Sergeant, Seybert, Sherwood, Tallmadge, Taylor, Terry, Tompkins, Wendover, Westerlo, Whiteside, Whitman, Williams of Connecticut, Wilkin, and Wilson of Massachusetts.

So the House determined that the bill be indefinitely postponed, that is, rejected.

A question arose, whether the Committee of the Whole, raised on the said bill, and to which was subsequently committed the bill "to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges," was dissolved by the vote last taken: Upon which, the SPEAKER decided, that the Committee of the Whole was dissolved by the said vote, and that the last mentioned bill was, consequently, in the House: Whereupon, it was ordered that the said bill to provide for the more convenient organization of the courts of the United States, and the appointment of circuit judges, be committed to a Committee of the Whole, to-morrow.

THURSDAY, February 26.

On motion of Mr. JOHNSON, of Virginia.

*Resolved*, That the Secretary of the Navy be directed to report to this House, the proceedings of the court martial, ordered by Commodore Isaac Chauncey, at the instance of Midshipman Marston, for the trial of Capt. John Orde Creighton, and that he be also directed to lay before this House, the memorial of the midshipmen and other officers in the Mediterranean squadron, forwarded to that Department, and emanating from the proceedings of the court martial held for the trial of the said Captain John Orde Creighton.

*Ordered*, That the letter from the Secretary of the Navy, transmitting copies of the proceedings of the courts martial for the trials of Captain Perry and Captain Heath, be referred to the Committee on Naval Affairs.

HENRY KING.

At the instance of Mr. ANDERSON, of Kentucky, the House proceeded to the consideration of the report of the Committee on Pensions on the petition of Henry King, for the payment of moneys due to him for Revolutionary services. [In this case a committee of a former Congress had unanimously reported very favorably on the justice of the claim, but that it was barred by the statute of limitation; since which report, the evidence on which that claim was founded, and which was then exhibited to Congress, has been destroyed by fire in the War Office.] The report is unfavorable, on the ground of a defect of evidence.

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Mr. ANDERSON moved to amend the report so as to reverse it, with a view to the introduction of a bill authorizing the adjustment of the claim of Mr. King at the Treasury on equitable principles, and spoke in support of the motion.

Mr. REED stated his recollection of services rendered by the applicant in the Quartermaster's department.

Mr. RHEA supported the report of the committee on the ground of a deficiency of evidence; and moved to refer the report to a Committee of the Whole, and to have the documents read by Mr. ANDERSON printed.

Hereon further desultory debate took place, in which Messrs. ANDERSON, EDWARDS, JOHNSON, STROTHER, W. P. MCCLAY, COMSTOCK, SOUTHARD, RHEA, OGLE, and HUBBARD, took part. The debate resulted in an agreement to Mr. RHEA's motion.

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The House then resolved itself into a Committee of the Whole on the bill to provide the manner in which the right of expatriation shall be exercised.

Mr. ROBERTSON, of Louisiana, rose and said, that the subject to which he had called the attention of Congress was of great importance; more important, perhaps, than interesting. It does not belong (said he) to that class of cases which command our attention, occupy our time, and excite our feelings. There is nothing pecuniary about it; it simply concerns the rights of man; and, in these halcyon times, when the rights of governments, of whatever description, are so well understood and so universally acknowledged, I do not know that a question of this sort may not be considered as ungracious. It is certainly our first wish in this country to cultivate a good understanding with foreign Governments, to sooth their hatred and banish their jealousies. And I do not know, as liberty and the rights of man are, by common consent, kept out of view in Europe, if it would not be more politic and conciliatory to say nothing about them here. Having ventured, however, to introduce the question, I will proceed to present my opinions to the Committee. That I may not be considered as having in view our situation in regard to other nations, I think proper to repeat what I have before said as to motives. Many years ago I submitted to Congress the same proposition; it received opposition where I expected it and where I did not expect it. It was considered, as most principles are that are not borrowed from the common law—that beautiful system which, next to special pleading, receives the most rapturous encomiums from a certain quarter in this House—as fraught with great mischief; it was said to interfere with pending negotiations; to encourage desertion, piracy, and I do believe every sin in the decalogue. However, it was found convenient to get rid of it. I then pledged myself to the House to bring it forward again. I now redeem that pledge; and although it be not borrowed from England, and although it may be supposed to

carry along with it some effects which may prove beneficial to the reviled cause of the patriots of South America, and may be very odious to the friends of Ferdinand, for rescuing from the crime of piracy certain of our citizens abandoned by their country under our treaty with that most respectable monarch—I say, notwithstanding all this, I will continue to press the truth of the principle for which I contend as long as I shall hold a seat in the councils of the nation. I do not propose, Mr. Chairman, to take the affirmative of this question, and prove by argument the right of expatriation. I consider it as an acknowledged, a natural right; and I demand of those who contend for the right of government to the perpetual allegiance of the citizen to show and support that right. Man has natural rights, government has none. Let the enemies of human rights—at all times the real innovators—support their claim. The friends of liberty have too long submitted to the charge of being innovators; while tyrants and despots have always deserved to be so considered. But whatever the vial of holy oil may do for kings of France, and whatever Heaven may have been impiously said to have promised the King of Spain, in payment for certain embroidered petticoats; whatever may be right as to kings of England, who are not, like the Pope, infallible, but who simply can do no wrong; whatever may be their right divine, here, at least, in the United States of America, government has no natural, no divine rights. Let them who contend for the right of the Government to the perpetual allegiance of its—what? Slaves? No, masters show that power. Here is the Constitution, the charter of its power; out of it it shall not go. Is any such power to be found here? No; then it does not exist. But the principle for which I contend exists in the Constitution. It is liberty; it is the right to pursue happiness; it is an inalienable right conferred on man by his Creator; it is a necessary consequence of the power of naturalization. It is absurd to talk of the right of our Government to naturalize, and of another to the allegiance of its subjects so naturalized; yet I have seen some ingenious quibbling in support of this nonsense, and perhaps may hear more. It is a clear principle, then, that every free man has a right to quit his country, whether his country by birth or adoption, and to live in some other, whether it be for the benefit of his health, or to procure the necessities, conveniences, or luxuries of life, or because he may prefer the political institutions of some other country to those of his own, or for any other reason whatever. I presume it was by the exercise of the right of expatriation, that from the garden of Eden the human race has spread over the whole world. It was among the first rights that mankind practised, and, perhaps, was never denied in ancient or modern days by any other than the English, Chinese, and perhaps the Hottentot Governments. I presume if they have constitutions, although I have never been so fortunate as to see them, that this power is expressly given; and all I demand of its advo-

cates here is, to point it out in our Constitution. In discussing this subject further, I shall rather give its history, than examine its existence. The Scriptures are full of instances in which it was exercised: the Jews expatriated themselves from Judea, and settled in Egypt; again changed their abode, and resided in Canaan; and now live wherever they please, if not prevented from doing so by the persecuting zeal of Turks and Christians. The Greeks, according to Anacharsis, practised both naturalization and expatriation. The instances are too numerous and notorious to mention. It is sufficient to advert to the history of the celebrated Spartan lawgiver. Lycurgus, in leaving his country—that country which became so illustrious from obeying his precepts—exactd a promise from his fellow-citizens, that the laws he had given them should not be altered or abrogated during his absence. He left his country, with the intention of never returning to it; and he never did return. It is probable, at least, that in his code there was no law to prohibit expatriation; and yet he is as celebrated, and his memory is as much respected, as that of Thor and Woden, who, it is believed, were the authors of the principle of perpetual allegiance. The Romans, in this respect, were as wise and as liberal as their great archetypes. The apostrophe of Cicero, though well known, cannot be too often quoted: “O glorious right—by the Divine favor obtained for us by our ancestors in the commencement of the Roman name; by which no man can be the citizen of more than one country; by which no man can be compelled to leave it against his will, nor remain in it against his inclination! This is the firmest foundation of our liberty—that every man should have an absolute power to retain or abandon his right at his election.” I refer with pleasure to those ancient and illustrious nations—illustrious for the brilliancy of their actions, and for the manliness and independence of their principles. They excite more of my admiration than the Goths and Anglo-Saxons, who flourished at a period of time emphatically denominated the dark ages, when the absurd idea of perpetual allegiance originated.

For the truth of this principle, we shall be turned over to Sir Matthew Hale, my Lord Coke, and other distinguished worthies of the law; but, as they were better acquainted with municipal than universal law, I think it probable that, in this country, and in this era of human improvement, they will not be considered as authority. What can they weigh against the practice of all nations, except that to which they belonged—against the principles of really enlightened legislators and jurists of every age and of every country? I do not mean to enter into any nice or technical discussion, but I will merely mention, that I believe even in England the question is considered as a moot point. In France, in 1793, then Republican France, when liberty appeared to dawn upon benighted Europe, the right of expatriation was expressly recognised; the loss of citizenship was made to depend on naturalization

in a foreign country, or in accepting any office from any other than a popular Government. The Constitution of 1793 deserves great respect; it abounds in sound and excellent principles; it could not do otherwise; it emanated from enlightened heads and pure hearts, and is superior to any form of government the world had ever before seen, except our own, with which it will bear by no means an unfavorable comparison, and from which many of its principles were borrowed. I do not hesitate to support my opinions by adverting to France at the period to which I allude; indeed, at all times, I have thought as well of her as of any of her neighbors. For a while she maintained a noble struggle for freedom, and now that, from sinister events, both her liberty and her independence are cloven down, I feel towards her a mingled sentiment of compassion and contempt—compassion for her enslaved and subjugated state—contempt for her tame acquiescence. But I hasten to leave distant times and distant countries to contemplate the cheering prospect which our own country affords; not that on this subject it commands unqualified approbation; for, notwithstanding the Declaration of Independence; notwithstanding the Constitution which gives to Government the right of naturalizing foreigners, and thus admits the right of foreigners to expatriate themselves; notwithstanding the right is generally admitted by our most intelligent politicians—by our legislators and judges—yet it so happens that the enjoyment of the right is denied; and this brings me to the consideration of the question, whether it be expedient, in the words of the resolution, to secure by law the exercise of the right of expatriation? I contend it is proper to do so, because of the decisions of our courts, the opinions of our judges, and of certain principles contained in some of our treaties. It will be admitted that, whenever the citizen is denied the enjoyment of a right, or whenever the manner by which he may exercise it is involved in doubt, it then becomes the duty of the Legislature to interfere—to announce the right, and to prescribe the manner by which the enjoyment of it shall be secured. Nothing that can be regulated by legislation should be left to the discretion of judges; freemen should be governed by laws, and not by judges. If I show, then, that the right of expatriation has been denied, and the enjoyment of it, when admitted, also denied, I think there will be no hesitation, on the part of the Committee, to declare and secure the right by express law. In the case of Isaac Williams (2 Cranch, 82) Judge Ellsworth decided, that a citizen of the United States could not dissolve the connexion between himself and his country. Isaac Williams emigrated from the United States, settled in France, and became a citizen by being naturalized according to law, two years before the war broke out between that country and England. On the happening of that event he received a commission to cruise against the enemy; he did so, and was successful in making captures. He was subsequently arrested, and tried in the United States

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district court of Connecticut for engaging in hostilities, as a citizen of the United States, against England, a nation with which we were at peace. He was found guilty, fined, and imprisoned, by Judge Ellsworth, who explicitly denied the right of expatriation, and asserted that the common law of England was the law of the United States. Here then we have, on the part of a judge, a clear denial of the right.

In the case of Talbot and Jansen, (3 Dallas, 133,) in the Supreme Court of the United States, Judges Patterson and Iredell seemed to admit the right of expatriation, while Cushing and Rutledge acknowledged the importance of the principle, but declined giving any opinion; yet Judge Iredell, notwithstanding his admission of the right, after stating that it was in proof that Talbot had gone to the West Indies, and had taken an oath of allegiance to the French Republic, says, that he does not think that taking such an oath, and being admitted a citizen there, in itself, is evidence of a bona fide expatriation, or discharges the obligation an individual owes to his native country. For all practical purposes, then, the opinion of Judge Iredell is no better than that of Judge Ellsworth. But the judges before whom this important question arises, and by whom it must be decided, themselves declare the expediency of legislative interference. Patterson expressly says, that "a statute of the United States relative to expatriation is much wanted, especially as the common law of England is, by the constitution of some of the States, recognised and adopted. Besides, ascertaining by positive law the manner in which expatriation may be effected, would obviate doubts under the subject, notorious and easy of apprehension, and present the rule of civil conduct in a very interesting point." Iredell also remarks, that "all the contentions about expatriations in the courts, have arisen from a want of the exercise of this authority; that differences of opinion exist as to the manner of effecting expatriation; that some hold that it is a natural inalienable right in each individual; that it is a right upon which no act of legislation can lawfully be exercised, inasmuch as a Legislature might impose dangerous restraints upon it, and of course it must be left to every man's will and pleasure to go off when and in what manner he pleases." He proceeds to assign his reasons for differing from this opinion, but I shall follow him no further; it is immaterial to my view whether he be right or wrong. I have nothing to do with the correctness of the opinions of the judges; I am only concerned with the fact. These opinions go to deny the right of expatriation; to deny the enjoyment of the right, and to invite, as well as to demonstrate the propriety of legislative interposition. Why, then, should Congress leave, vague and undefined, questions so important to the citizen, and so embarrassing to the tribunals of the country? I now come, Mr. Chairman, to another fact, to which I briefly alluded, and which furnishes additional reasons in support of the bill now under consideration.

The United States have uniformly expressed a wish to be neutral and impartial in their relations with Spain and the revolutionary States of South America. The Government professes to be desirous of placing them on a footing of exact equality; to view them as independent Powers, entitled to equal respect and similar rights. Whether they are so considered or not, I have no intention at this time to inquire. But I will show, from our Treaty with Spain, that the situation of the revolutionary governments of South America is infinitely disadvantageous, when compared with that of their enemy. This, however, is no charge against our Government. The Treaty with Spain was entered into long before the revolt of the colonies, and cannot be affected by that event; but a state of things now exists that ought not to be suffered to continue. I am far from recommending any violation of that instrument. I do not mean to touch its provisions; but I do mean, if the House will hear me out, to rescue the citizens of the United States from the infamy cast upon them, and the penalties denounced against them by one of the most extraordinary and abominable principles that ever found its way into the code of any nation pretending any kind of regard for the rights of liberty and of man. And in doing this, if the holy cause of the patriots of the South shall be promoted, without any breach of obligation on our part to any other Government, it will be to me a source of high and unfeigned satisfaction.

By our Treaty with Spain (article 14) it is provided, "that no citizen of the United States shall apply for, or take any commission or letter of marque, for arming any ship or ships to act as privateers against the subjects of His Catholic Majesty, or the property of any of them, from any Prince or State with which the said King shall be at war; and if any person of either nation shall take such commission, he shall be punished as a pirate."

By what authority the President and Senate agreed to such an article, I will not stop to inquire. I content myself with saying that they had no authority; that they transcended their powers; that the Constitution of the United States gives to Congress the power to define and punish piracies, and not to the President and Senate. But the unequal operation of this article in the contest now raging between Spain and the Government of South America, ought, as far as it is in our power to do so, to be obviated. The operation is this: a citizen of the United States taking part with the people of South America is to be considered as a pirate, whilst, on the other hand, if he take part with Spain, no such penalty awaits him. Put it, then, in his power to avoid this hazardous situation. Let him, if actuated by a noble wish to aid a brave people struggling for freedom, if he choose to do so, cease to be a citizen of the United States; he does no more than he has a right to do, and the United States stand absolved from the consequence of his conduct. He is no longer a pirate; he no longer violates any law, or pretended law, of the United States;

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he ceases to be amenable here for his acts. All this, however, although necessary to protect man in the enjoyment of his rights, although just and beneficial to a cause to which I most cordially wish success, merely adds strength to the reasons in favor of the great principle for which I contend. I contend for the right of expatriation, in its own abstract truth. It was true from the beginning of time, and forever will so remain. Tyrants have denied it, and slaves have acquiesced; but it is no less true on that account. I support it on its own intrinsic merits; long before the patriot cause of the South excited our sympathies, or our antipathies, I submitted the proposition to Congress, and, whatever be its fate, I will never forget or abandon it.

This brings me to the last point in the present inquiry. Is the bill reported by the committee suitable to the purposes for which it was intended? Does it secure the exercise of the right of expatriation? It has one advantage at least; it is simple and easy of comprehension. In the language of Judge Roane, speaking of the Virginia law, it does not presume to give the right; it points out the manner by which it may be exercised. It provides that the citizen intending to expatriate himself, shall state the fact on the records of a court of the United States; and that, on his departing and going out of the United States, he shall be considered as having exercised his right of expatriation. It is in substance a copy of the Virginia act, and with me the example of that State has great weight. The object of the committee was to secure to the citizen the exercise of the right; the bill seemed to them well calculated to effect that end; it involves no disputed principles; its details give rise to no embarrassment. It is, however, open to amendment, and, if in its present form it does not meet the approbation of the House, it can be so shaped as to do so.

I will concisely recapitulate the views I have submitted.

I have considered expatriation as a natural right bestowed on man by his Creator—held by no Government or law, but by a tenure superior to both. I have shown from history that it has been so considered at all times, by the wisest, best, and greatest men; that it was freely practised, and clearly admitted, by illustrious nations, ancient and modern—I allude to Greece and Rome, and Republican France; that England is the only country where it is denied; that it is acknowledged very generally throughout the United States; that it is denied by some of our courts, and its enjoyment refused by all; that, as a necessary consequence, if the citizen is to be protected in the exercise of his rights, legislative interference becomes necessary; and finally, that the judges themselves have urged upon Congress the expediency of passing some act on this important and interesting subject. I have nothing more to add—I thank the Committee for the attention they have been pleased to bestow on me.

Mr. ANDERSON, of Kentucky, said, that of the existence of the right, he had no doubt, and that

probably it would not be denied or doubted in the debate. An inquiry, however, into the Constitutional power of Congress to prescribe the mode of enjoying this right, should precede all observations on the policy of the measure or any examination of its operation on the citizen. In stating an opinion that this power was not possessed, he might incur the imputation of being unnecessarily scrupulous, but he felt assured that the standard by which he would measure the Constitution and ascertain its meaning, would not justify such an imputation; that the rules by which he would abide, should be of a character which all should declare liberal and fair. In the spirit of these liberal rules, he did not demand an express grant of power, but would renounce his opinion, if a clause could be shown from which the power of Congress to prescribe the mode in which the citizen should renounce his citizenship could be fairly inferred; or if it could be shown that the exercise of this power was necessary or convenient for the exercise of any other, given either expressly or impliedly.

In maintaining the negative of this proposition, the ordinary benefit of knowing the ground of an adversary was lost; he did not know on what clause its friends would rest for its support; but, although deprived of this usual source of argument, the inspection of the Constitution afforded one incapable of answer: it showed the absence of every clause which could imply or intimate such a power. And it might be as boldly asserted that the bill under consideration was in no way necessary or even conducive to the execution of any of the enumerated powers. Even under this latitude, which is probably greater than, according to correct construction, the friends of the bill could of right demand, it cannot be supported. If, then, the power is not expressly or impliedly granted, and is in no way promotive or auxiliary to the exercise of any other, all question must cease.

Several persons in conversation have urged the opinion that the section which declares that "Congress shall have power to establish a uniform rule of naturalization," conveys or implies a power to pass laws to prescribe a manner of expatriation; but this is an implication surely inadmissible under any known rule of construction. Such an interpretation would support the idea that the grant of an authority to effect one object always conveyed a grant to effect its correlative. Will it be contended that a power to impose duties on imports, conveys a power to impose duties on exports? Or that a power to legislate on the one subject implied an authority in any way to legislate on the other? Does the power to "borrow money on the credit of the United States" contain one to lend money? A construction like this would prostrate common sense and render it necessary that the grant of every power should be accompanied by a prohibitory clause, negating all right to legislate on its converse. But if, indeed, the ordinary rules of interpretation are to be applied, the result will be very different, as the introduction of the one would strongly imply the



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intended omission of the other. The insertion of the power to naturalize, furnishes evidence, negatively, that the other was omitted from design, and not from inattention. As the general subject was before the members of the convention, if a general power to legislate in both cases had been intended, it may be fairly said that the intention would have been effectuated in the same way. No adequate reason can be assigned for expressing that design in the one and omitting it in the other case. The conviction on the mind is then complete, not only that the power is absent, but is absent from intention. So far, then, from the friends of the bill receiving any aid from this clause, the only admissible inference from its introduction is altogether adverse to their proposition.

But it has been said, that this section declares the opinion of the convention, that a subject or citizen may expatriate himself or renounce his allegiance to the country of his birth. To this, Mr. A. most promptly acceded; it does prove incontestably, that they did not doubt the right. The convention would not have authorized Congress to naturalize the subjects of foreign States, if they had not acknowledged the right of the foreigner to renounce his allegiance to his native country and assume a new one here. A contrary doctrine would lead to the wildest consequences; it would declare that those who had taken the benefit of our naturalization laws were still bound to a foreign dominion; that in the event of a war they would be traitors to their former government, and that this Government would be absolved from all obligation to protect them. The laws which we have passed giving facilities, and of course holding out invitations to the subjects of foreign nations to come and live among us, must be bottomed upon the indisputable right of the foreigner to assume an allegiance to us, and of course to renounce every previous obligation inconsistent with it. Under any other view, our laws inflict the deadliest injury on the unfortunate man who takes the benefit of them. Then, although this clause does in effect contain a recognition of the right of the American citizen to expatriate himself, the mistake arises from not attending to the important distinction between the acknowledgment of a right and the grant of a power to prescribe the manner of enjoying that right. The first is incontestable, both on principles independent of the Constitution and on the recognition virtually contained in the power to naturalize; but the other is in no way conveyed or implied. The policy of granting or withholding the power, may not be so easily seen; and indeed, in cases of plain omission, such an inquiry could only result in useless and perplexing labor. In ambiguous cases, the intention of the lawgiver furnishes a fair means for ascertaining the sense of the rule, but where no doubt can arise on the language, the motive or cause for the omission may be a curious and indeed valuable matter of speculation to the future legislator, but can be in no way beneficial to the correct exposition of the written instrument. Here the introduction of

the power to pass laws on the subject of naturalization arose from the fact, that emigration to our country was common, interesting, and was deemed desirable; that a probation was thought necessary to give a safe assurance that the emigrant had renounced all foreign propensities and was attached to the principles of our Government; that it was also necessary that this probation should be uniform, and finally, that this could only be effected by submitting the subject to the Federal Legislature. In the other case, not one of these reasons could have any operation; any law declaring the manner in which citizenship should be renounced might be thought unnecessary, because, while naturalization consisted of a number of acts created or varied by the municipal regulations of each country, expatriation consists of a single act, a departure from the country with the intention of a permanent abode abroad. This may be a very imperfect conjecture of the reasons which had effect; many others may have existed much stronger than these, but in no way can the result be varied.

A very high authority in support of the opinion, which he maintained, arose from what had in the late edition of the laws been published as the 13th amendment to the Constitution. This amendment had not, he believed, been fully ratified; it had passed through both Houses of Congress with a majority of two-thirds, and had received the sanction of only twelve States; two others have not yet acted on it. But, inasmuch as he only referred to it, as to the opinion of wise men most solemnly given, it was not very material to the present purpose, whether it had received the sanction of twelve or of thirteen concurring legislatures. The amendment is in these words: "If any citizen of the United States shall accept, claim, receive, or retain any title of nobility, or honor, or shall, without the consent of Congress, accept and retain any present, pension, office, or emolument, of any kind whatever, from any Emperor, King, Prince, or foreign Power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them or either of them." The introduction of this article declares the opinion of the highest tribunal in the United States, the only tribunal which can alter or amend the Constitution under which we live, that Congress could not declare the acts which should amount to a renunciation of citizenship; otherwise there would have been no necessity for this last resort. When it was settled that Congress could not declare that the acceptance of a pension or an office from a foreign Emperor amounted to a disfranchisement of the citizen, it must surely be conceded that they could not declare that any other act did. The cases to which their powers before this amendment confessedly did not extend, are very strong, and induce a belief that Congress could not in any case declare the acts which should cause "a person to cease to be a citizen." The want of power in a case like this, where the individual has given the strongest evidence of attachment to a foreign

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potentate and an entire renunciation of the feelings and principles of an American citizen, certainly establishes the absence of all power to pass a bill like the present one. Although the intention with which it was introduced, and the title of the bill declare that it is to insure and foster the right of the citizen, the direct and inevitable effect of the bill, is an assumption of power by Congress to declare that certain acts when committed shall amount to a renunciation of citizenship.

If this right of expatriation was given or created by the Constitution, it might plausibly be contended, that we could direct by law the manner of its exercise, but since, as he thought, it depended on principles entirely unconnected with it; and was not enlarged, restricted, or in any way affected by it, he could not assent to the position. Rights which are created by the Constitution, but which are comparatively few, (for constitutions always restrict rather than enlarge them,) can be controlled, and the mode of their exercise prescribed; such are the rights of voting for representatives, or of electing the President. The idea that Congress can pass this bill merely because the citizen has the right, is certainly incorrect; numberless instances may be cited of the undervivable existence of the plainest rights about which we cannot legislate; he can alienate or purchase lands, devise his inheritance, or vote for State officers, but Congress can pass no law either to control or secure their enjoyment.

If it be asked what tribunal possesses the authority of declaring the acts which shall amount to an expatriation, I reply, said Mr. A., that the proposition which I endeavored to maintain in this debate only requires that I should show that the Congress of the United States does not possess it. If the power exists in any legislative body, it is in the State Legislatures. Some of them have exercised the power by passing laws; and if a citizen of Virginia has pursued the mode prescribed by the State, an unhappy question, and most vexatious collision, would arise, if the Federal Government should still require his allegiance, and deny the validity of his renunciation, until he had also followed the course prescribed by her, and had submitted to requisitions in addition to those he had previously pursued, and which the statute of his State had declared made him no longer a citizen. And this view of the subject strongly impresses the conviction, that Congress cannot constitutionally act, for surely the authority of declaring what shall disfranchise the citizen of a State, is an authority too great for us to presume its surrender, even if the 9th amendment had not declared that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." So that under every consideration the people or the States form, in this case, the depository of the power, and Congress can have no just claim.

But the absence of all power from the State Legislatures would not vest it in us, and would only leave the subject in a situation possibly more

beneficial to the citizen than any other; and it may safely be asserted that it is at least problematical, whether the right is not better secured, its unrestrained enjoyment more fully assured, by denying to any body the power of controlling, affecting or legislating on it. Various considerations arise to diminish any regret at the want of it. There are indeed many rights which require legislative provisions to enable the citizens to have the full benefit of them: the right of trial by jury, of election, of obtaining "justice without sale, denial, or delay," are all of this kind. But there are many, also, which require no law to give the citizen unqualified and absolute enjoyment of them. The right of assembling to discuss public measures; of petitioning for redress of grievances; the liberty of the press, require no such aid: all they ask, for the freest exercise, is to pass no law; abstain from all legislation on the subject. There are still others of a more delicate character, about which it is not only unnecessary, but dangerous to legislate: the right of worshipping Almighty God according to the dictates of our conscience, is emphatically of this kind. There are many others of the same class. Their perfect enjoyment depends on the entire absence of all legislative control; their very existence consists in a freedom inconsistent with all legislation. But no bill could be passed on this subject, which would not, in some degree, restrict the exercise of the right. Although under the language of the present one, that restriction was very slight, still it was one to the whole extent of the effect of the law. In proportion to the operation of the law, would be the embarrassment produced by it to the exercise of the right; and this would be the case under any phraseology you could adopt, although it might be enacted, as he knew it was intended, to aid and not to embarrass.

But the passage of this bill would establish a precedent, which might produce a consequence utterly subversive of the right; if we can declare that any acts previous to emigration are necessary to produce a valid expatriation, we could at any time alter the present requisition and declare that other acts, more expensive and inconvenient, were necessary, and in this way claim and assert a power, which would enable Congress to require a mode so inconvenient as to amount to an entire denial. If we can require the citizen to make an abjuration in a court of justice, we can as certainly require him to give notice of his intention for one or two years, or any period of time which our policy or caprice may direct. And it is not a slight objection, that any foreign legislature might take advantage of this precedent, set by an American Congress, and declare that no subject could renounce his allegiance, except by complying with forms inconvenient or impossible, and in this way deny, in a manner borrowed from us, what we say can be denied to no one. Do we not invite the British Parliament to pass similar laws? Do we not acknowledge not only their power, but the policy of doing it? If we yield this, then we have yielded everything. It contains an acknowledgment that the citizen or

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subject cannot throw off his allegiance to his native government without complying with any regulations, which that government may prescribe. What then is the situation of the unfortunate emigrant, allured to our shores by our naturalization laws? He comes, passes the required ordeal, and becomes an American citizen; but as he has not complied with the previous requisition of the British statutes, the validity of which we recognise by passing this bill and assuming similar powers, he is still bound by his foreign allegiance. We should never adopt any course which could for a moment countenance the idea that those who have been admitted by our laws had not every privilege and safety which the American citizen has.

The emigration, which is rapidly taking place between different States of the Union, has never rendered necessary the passage of any bill for releasing the individual from his obligations to his parent State. His departure with the intention of permanent absence, is considered a forfeiture of all the rights appertaining to him in his character as a citizen of that State; although it might be urged that many cases of ambiguous nature might occur, where there was an absence, but it could not be ascertained with certainty whether it was only temporary or permanent, still no State has deemed any law necessary to declare the acts which should produce a forfeiture of State citizenship.

The situation of a young man arriving at the age which releases him from parental authority, is an analogous case, and may illustrate my idea. The fact of arriving at the age, under the previous general law, which declared the period at which the privileges of a freeman should be assumed, of itself produces the result, and pronounces the emancipation; so, he would consider that the fact of departure, with the necessary intention under the laws, which exist at all times and places, and require no amendment, produced of itself an expatriation.

Mr. A. said he knew that it was on the goodness of our Government and the purity of its administration, that we ought only to rest for safeguards, against any general inclination of the American people to leave our country. Whenever the republican institutions of the country, the freedom of its laws, and the impartial administration of public justice, shall have ceased to preserve their attachment, he would never raise legal fences against their emigration; he would permit them to go wherever better fortunes or fairer destinies invited them. No artificial barrier should be raised to prevent man from seeking his happiness, wherever brighter prospects or a kinder sun invited him. No human institutions should bind him to one country, when his heart and his hopes were fixed upon another. It is not our policy to retain those, who from judgment, caprice, or any other cause, domestic or political, have ceased to be happy and tranquil under the Government. It is not only best for them, but safest for us, that they should go. While he entertained these opinions, and should on all proper

occasions act upon them, he still thought the present bill unnecessary and unconstitutional.

Mr. JOHNSON, of Kentucky, said, that the right of expatriation was recognised by the declaration of our independence in 1776, and founded on the immutable principles of self-government. The act of expatriation was the exercise of the privilege of locomotion, and the seeking our individual happiness without infringing upon the rights of others; it was emigration with a view to abandon our residence and citizenship in one country, for a permanent residence in another. The denial of this self-evident principle was of no modern date; it had its origin in the day of feudal tenures, where men, as tenants, were the property or servants of the proprietors of the soil, which was divided among the chieftains who destroyed the Roman Empire with their innumerable warriors, and the tenants were compelled to take the oath of fealty—the oath to be true to the landlord. From the idea of perpetual fealty or obligations in this case of feudal tyranny, the same ridiculous idea of perpetual allegiance to a particular sovereign or Government was transferred to some of the monarchies of Europe, and particularly recognised and ingrafted into the political system of Great Britain. In the days of antiquity, the times of Grecian and Roman liberty, the idea of perpetual allegiance was unknown, and the right of expatriation not doubted. To me it has always appeared as much a political fiction as the legal proceedings in the name of John Doe and Richard Roe, in the case of ejectments. That fiction has no likeness or parallel but in this case. What, Mr. J. asked, is acknowledged to be the basis of allegiance or duty to our country? Protection. This is the basis; and yet it is pretended by the advocates of perpetual allegiance, that, while, beyond the jurisdiction of that country to which they pretend we owe this allegiance, although permanently settled down and naturalized in any other country, the individual who is out of the protection of his native country still continues to owe that allegiance which would make it treason to be found in the ranks of his adopted country, defending its rights and liberties. Upon this principle, in the late war, Irishmen, and others, who had abandoned their native country, and who had taken up a permanent residence with us here, were treated as rebels and traitors, and sent to England as such, until it was determined by the President of the United States to retaliate upon British officers and soldiers who had been taken as prisoners of war. And, although it is very convenient for kingly Governments to contend for the perpetual allegiance of their subjects, the uniform practice of all nations proves the fallacy and incorrectness of the theory. There is not a nation in Europe which does not permit the citizens and subjects of other Powers to become citizens or subjects of their respective dominions. This general practice proves the correctness of the principle that the right of emigration is immutable and inalienable. Shall we sanction a doctrine that would deprive the sub-

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jects of a despotic Government of the right and the power of seeking a country more happy and free? What are the ties that should bind us to our native country? Protection and freedom, liberty of conscience, liberty of speech and of the press, rights of persons and right of property. When these blessings shall not be secured to, and enjoyed by, the citizen, his obligations cease; his Government is no longer worth his regard and support; and he may and should seek an asylum in some more favored spot, and live in the country of his adoption. Indeed, under all circumstances, I contend that the right of expatriation is as sacred a right, as inalienable, as the rights of persons and of property, the liberty of speech and religion. None of these can be limited or controlled, without violating the fundamental principles of freedom. In a Government of laws, and where the political institutions of the country are congenial with principles of liberty, the duties of a citizen, the love of country, moral and religious obligations, the ties of affinity and consanguinity, together with a thousand other considerations, are a sufficient and the only sure guarantee to the existence of free Governments; and we cannot deny the right of emigration to our own citizens, without denying it to Irishmen, Englishmen, and to all other nations on the globe. The doors of this great city of refuge, the United States, would have to be closed against the oppressed and persecuted. And, if the right of expatriation was denied, what would become of the clause in the Federal Constitution which delegates to Congress the power to establish a uniform rule of naturalization? Here, again, we find the principle of expatriation, the power to naturalize foreigners, and to make them a part of the great American family by adoption; and, when settled down among us, they are as much bound by honor, duty, and law, to defend and support the United States, as native citizens, notwithstanding the British doctrine to the contrary, which inculcates the idea that the King of England has a right to the support of his native-born subjects at all times, and in all places, upon the pretence that all such naturalized subjects have a right to the King's protection, wherever located. What protection can England extend to her native subjects when settled and naturalized in the United States, or in any other country? If the British Government had the disposition, what protection can be given by a sovereign of a foreign Government to the naturalized citizen of the United States?

But it was idle to talk of this protection, if it were practicable, when the subject has abandoned his native State, and become a fugitive from every kind of oppression and persecution which degrade the character of mankind; yet this imaginary protection, which denies to him the right of locomotion, of seeking happiness in any clime, and becoming a resident and citizen of any other country, is called the birthright of Englishmen. Protection, said Mr. J., is the basis of political obligation, and, while the citizens of a country, we are bound to defend the soil and

support the Government. But allegiance may be destroyed by acts of oppression on the part of the Government, and the right to protection may be forfeited by the citizen, by the perpetration of crimes which doom him to exile or imprisonment for life. What is the universal practice of nations? Examine the history of Governments. Nations have withdrawn that protection which is the basis of allegiance, by transfers of whole provinces of people to other sovereigns. It was changed by the expulsion of the Moors from Spain; by the voluntary exile of the Huguenots from France; by a revocation of the edict of Nantz; by outlawry, by banishment, by perpetual imprisonment. Individuals have equal rights, and they have, in all ages, exercised them; as communities they have exercised them. In the American Revolution; in the French Revolution; in the present struggle in Spanish America, the right of throwing off allegiance has been exercised. As to individuals, every vessel from Europe gives us evidence of the exercise of this right, and the principle of self-preservation operates in the case. If a subject of Great Britain shall find it impossible to subsist himself and family there, shall he not seek bread in a land of plenty? When the Government to which he owes obligations shall fail in its protection to its members, shall the unfortunate sufferer be deprived of the privilege of seeking protection elsewhere? If denied the right of worshipping God according to his own faith, shall he not seek a land where he can sit down under his vine and fig tree, where none can make him afraid?

But it seems to be doubted whether it be correct to legislate upon this subject, even by those who acknowledge the right of expatriation in its fullest extent. But the judicial decisions of this country against this right make it not only expedient, but indispensable, to point out a mode by which an individual may declare his intention to abandon his permanent residence and citizenship. If you do not this, you jeopardize this vital principle. In one case you place yourself in the power of the court, for here the right of expatriation can alone be tried judicially; and in the other case you place yourself in the power of individuals, who go beyond sea, and who assume or renounce the rights of citizenship, as it may suit them best. If you arraign him for a violation of your neutrality, or of the laws of the country, he denies his citizenship, and claims the right of expatriation. If he is oppressed by foreign nations, he may claim redress as an American citizen, and may have renounced his citizenship. If a citizen violates the laws of the country, let him be punished; if he is oppressed, and his rights disregarded, by a foreign Government, let him be protected. In all these cases what do we propose? To point out a simple mode by which record evidence may be produced of the exercise of the right of expatriation. The individual must go into court and record his intention to renounce his citizenship.

It is as necessary that you should establish a uniform rule of expatriation, and secure the

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right, as to establish a uniform rule of naturalization, by which a foreigner may become a citizen by adoption. In our intercourse with foreign nations, it is necessary for the security of the Government, and indispensable to the security of individuals. As well might it be contended that, because the right of property is a sacred right, we cannot secure it by pointing out the evidence of property. If we had no rule of evidence on this subject, the property of individuals would depend upon the discretion of the judiciary; a discretion in which I have confidence, but to which I never will trust the rights of any man when the legislative department can furnish the remedy against an abuse of it. If the citizen has the right of locomotion and of expatriation, who shall prescribe the rule to regulate the exercise of it? Whenever this right is brought into controversy some rule of evidence must be prescribed. This rule must be prescribed by the courts, by the individual, or by the laws. I prefer the establishment of the rule by law, and let the courts and individuals conform to it.

With this view of the case, Mr. J. said, he left the subject to the decision of the House.

Mr. PINDALL commenced his speech by some remarks as to the character and object of the bill. He had once improperly understood its honorable friends as viewing it merely in the light of a regulation affording a record to those who might be interested in proving such an expatriation as might be made without the aid of any new law; but it was now evident that its friends introduced it in order to effect an important change of rights, with regard to their existence or non-existence under our present institutions, else why complain of the decisions of the courts, and imagine, as the gentleman from Louisiana has done, that the evils thus complained of are not to exist after the passage of the bill, or that Jonathan Williams, who was convicted in Connecticut under existing laws, would have been acquitted by the operation of this bill? It is, then, proposed to sever the tie of allegiance. Mr. P. said it was a rule as well of the moral law of nature as of the laws of society, (and therefore might be considered as a maxim,) that an obligation could only be released by the consent of the person who held the right to which it corresponded; allegiance imports an obligation on the citizen or subject, the correlative right to which resides in the sovereign power: allegiance in this country is not due to Congress, but to the people, with whom the sovereign power is found; it is, therefore, by the people only that any alteration can be made of the existing institutions with respect to allegiance. I admit that the people might have conferred this power on Congress, by the Constitution, but join the honorable member from Kentucky (Mr. ANDERSON) in challenging the production of the claim that gives the power or authorizes its inference. The power to establish a uniform rule of naturalization cannot be made to comprehend the power to change the law of expatriation. Naturalization, which con-

fers the rights and obligations of citizenship, is the contrary of expatriation, which divests those rights and obligations. A process of reasoning to show that Congress possessed only the right to naturalize, would authorize the affirmation that it did not possess the right to expatriate, in like manner as any other proposition may be negatived by an argument, the conclusion of which arrives at its contrary. Allegiance is fitted to sovereignty, and, whenever we discover sovereignty, we affirm that a correspondent allegiance must exist somewhere. The States of this Union are sovereign, and a celebrated writer of this country has justly said that every citizen sustains a two-fold political capacity first, with respect to the State; secondly, with respect to the United States. I beg leave to ask whether this bill is only to release the expatriated man from his allegiance to the General Government, or from his allegiance to this Government, and to the State government also? To an answer that he stands released from both allegiances, I reply that our power certainly fails, for the allegiance to the State responds to the State sovereignty, over which it is evident we have no control. But if it be answered that he is only to stand released from the allegiance due the United States, and may remain a citizen of the State, I would produce the second section, first article of the Constitution, by which it is provided that the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States. This clause would certainly then destroy every effect the friends of the bill are in quest of.

Had the Constitution permitted the passage of this bill, there are no considerations of policy or expediency to recommend it. It would afford a shelter for the traitor and pirate, who might resort to its provisions as a preface to a warfare against their own country, or to enable them to shun the consequences of our treaty with Spain, which treated such of our citizens as should accept commissions to cruise against our allies as pirates; and, although the gentleman from Louisiana, on moving the resolution which gave birth to this bill, condemned that article of the Spanish treaty as a novelty, it seems that similar articles have been inserted in our treaties with several other of the European Powers. The bill, by releasing our citizens from the obligation of treaties, would justly subject this country to an imputation of ill faith. A treaty imposes obligations not only upon the Government, but on all the citizens of the United States. This Government, undertaking to release its own citizens from the obligation of treaties, by pronouncing them citizens or aliens, (at its own pleasure,) would adopt the policy of the dishonest man, who, having bound himself in a bond by his true name, sought to exempt himself from its payment by changing his name. Indeed the attempt bears too strong a resemblance to the instances of fraud against treaties that are so frequently quoted by way of illustration by writers on national law.

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The gentleman who introduces this bill is guided by the purest motives; but I must be pardoned for saying that no one will ever avail himself of its provisions without motives of idleness or criminality. What good motive or commendable views can actuate any one who will resort to its purview? My inquiry is not whether an innocent motive will generally prevail in such instances, but whether a good motive can possibly have place in any such instance? If any other country can be pointed out, by the institutions of which naturalization is only permitted in behalf of those who shall have expatriated themselves from the Government of their nativity, it would be manifest that our citizens, who sought a residence in that country, might find an excuse for resorting to the aid of this bill, but I have never heard of that country.

It is not now necessary to discuss the correctness or errors of the common law doctrine of allegiance, which seems to have so little authority with the gentleman from Louisiana; and I am willing, during this discussion, to admit (if gentlemen imagine themselves aided by that admission) that the right of expatriation exists. This concession is made on the presumption that the friends of the bill comprehend under the term *allegiance* an obligation on the part of the citizen to obey all the laws or the commands of the supreme power, and that they wish to inculcate as true, that a citizen, having become naturalized in another country in which he takes his residence, has exempted himself from the municipal power and legislative authority of his native country. But, although he thereby becomes exempted from all obligation to obey the municipal laws of his native country, I would not admit (even for argument's sake) that his native sovereign is under any obligation to treat him only as a common enemy if found in arms against the country of his nativity. I do not derive the right of his native sovereign to treat him with greater severity than as a common enemy, from the terms used in our common-place definition of what is called the social compact; nor do I deduce this right from the notion of his country having conferred a benefit which he can never repay in having protected him in the helpless period of infancy, whilst unable to protect himself. But the relations of society create between its respective members, and with its sovereign, a confidence in which aliens do not habitually participate, and, although a member finally quits the society, he remains bound by ties of gratitude, not to use the means, talents, and information acquired through the favor and protection of his native country, for its injury and destruction; if he does, he palpably violates the duty of gratitude growing out of the former confidence of his sovereign; it is this ingredient which distinguishes treason from other crimes, and distinguishes his act of hostility from the assault of a common alien enemy. Although I yield to the gentleman from Louisiana that I will not set up the doctrine of perpetual allegiance, or that of the English common law, I cannot concur with him in the

opinion that the emigration of our first parents from Paradise, or the Israelites from Egypt, or the practices of ancient Greece or Rome, can afford us any light on the question of expatriation. The removal of our first parents from Paradise was not only with the consent of the only sovereign that presided over their destiny, but was contrary to their own consent; besides, this notion of expatriation supposes a change from the jurisdiction of one sovereign to that of another, and I know the gentleman cannot mean to contend that Adam and Eve on removing to the earth became absolved from the power of their Creator. Again, the removal of the children of Israel from Egypt was with the consent of the Government of that country; indeed, that consent to their expatriation was deemed of such importance as to authorize for its attainment the expense of all the wonders and calamities which were exhibited and inflicted during the correspondence between Moses and Pharaoh. With regard to the practice of Athens and Rome, we have the authority of Plato and Cicero to say, that laws existed in those countries which permitted the emigration of the inhabitants, which laws of course proceeded from the consent of the sovereign authorities. The Constitution of the United States (so often quoted on such occasions) affords but little light on such questions. A man might by possibility be naturalized or receive all the social rights of a native citizen, although relations continued to subsist between him and his former sovereign; for, although an act of Congress speaks of an oath of abjuration, there is no syllable or hint of such an oath to be found in the Constitution. If the assumption of the possibility of retaining a prior allegiance after naturalization had been made, it would no doubt have met the usual objection, drawn from the inconsistency of two allegiances in force at once, by imposing on a man sometimes the necessity of fighting for and against a country. This objection might be obviated, indeed its shape is improper, as it travels from particulars to generals, in striving to arrive at a general principle by an inference from a particular concurrence of circumstances, and this without resorting to the method of induction; or, if the objection is insisted on as legitimate argument, I would oppose it by another argument equally legitimate, and of the same character. Thus, expatriation is unlawful if it imposes an unlawful act; it is unlawful that any man should kill his father; but an expatriated man, placed in the military service of his adopted country, may be forced to kill his father. I acknowledge this argument unsound, because it partakes of the nature of the objection against which it is urged.

Others might combat the objection by observing, that the entangling obligations of allegiance are produced by the acts of the individual, who might therefore abide in the difficulty; to this, however, I would not resort, for it is the weapon of the professors of the English common law, whose authority is not respected by the gentleman from Louisiana. I would, however, ask,



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whether an expatriated man could be guilty of a crime by hostilities, when forced by his adopted to fight his native country? as an act, to be criminal, must be voluntary. Or, if such hostility be criminal, whether his adopted country can have any moral power to force him to the battle? It may probably be said that the denizen can perform all the duties of two allegiances, during peace, and that either country may employ him during war, inasmuch as it is not unlawful in war to usurp the resources of the enemy. In fine, it might be correct to say, that war is a resort to force and violence, and a suspension of right, from which no inference, with regard to the nature and extent of legal rights can be deduced, and that a person having contracted two allegiances, is placed by war and circumstances over which he has no control, under obligations which are incompatible, in consequence of which one or both of the ties must cease, as has been the case sometimes with penal statutes, where a man, by the concurrence of events, which were not foreseen by the law makers, was compellable, under the terror of penalties, to omit and to perform the very same act; but here again we are only introduced to the difficulty, for the question is, on which side, if either, shall he bear arms in the case proposed? While I disclaim the capacity or disposition to solve so many difficulties, I deem it evident that these and innumerable other questions and inconveniences of awkward posture are the consequences of forsaking the good old tracks of our ancestors. They considered this thing of expatriation as a prejudice, as an evil inflicted for crime, and did not disturb themselves by any solicitude for those who voluntarily submitted to its condition. Whereas the ingenuity of later times seeks to rank this thing among our rights which are to be regulated and secured by statutes. The mover of this bill tells us of the expatriation of ancient times, but he has evidently glided into the common error of modern and popular writers, who confound the notion of *expatriation* with that of *emigration*, and, by proving the right to emigrate, assume the right of expatriation.

Virginia is the only State that has adopted an expatriation law, but she did so under circumstances that do not exist with this Government. She passed the act immediately after her independence was acknowledged. Her citizens had all been subjects of the British Empire, and numbers of them at such an important juncture might have wished a choice to remain the native of either part of the severed Empire. Be the policy what it may, it was then an evidence of magnanimity on her part. That law has probably remained in her code, from some impressions that the adoption of the Federal Constitution made it improper in that State to modify, repeal, or meddle with the subject. While I admit that but little harm has resulted from the Virginia act, I must remark that it has never produced anything desirable, and would, in my estimation, serve better as an ornament to a museum, than as a legislative precedent. But will the bill now

before us be equally innocent with the Virginia act? Will it remain harmless and inefficient? I have too much respect for the talents of the honorable member from Louisiana, to believe that he intends to pass a law to remain a dead letter. When that gentleman girds on his sword, he intends to do and will do some execution, by having a bill that will take effect, and, although I have the utmost confidence in the rectitude of his motives, I must vote against a bill which I think will effect no good, but much evil.

Mr. T. then moved to strike out the first section of the bill.

Mr. LOWNDES said, he should at this time of the day not long detain the Committee; but, intending to vote for striking out the first section of the bill, he was disposed to assign some of the reasons which induced him to do so. He concurred entirely with the gentleman last up, that no practical benefits could be expected from the bill, and he agreed with a gentleman who spoke before him, (Mr. ANDERSON,) that, if the House were to pass it, they would transcend their Constitutional powers. On some subjects he might not be so scrupulous, as in the present, in adhering literally to the grants of power in the Constitution; but, in acting on a question which, like this, involved the decision as to who shall vote for officers, &c., the House ought to be more than usually scrupulous in the examination of its own powers. It was true, Mr. L. said, that this bill did not propose to give new rights or to take away those which exist, but was introduced with a view of carrying into effect a Constitutional principle, and to secure the free exercise of a right, the existence of which is admitted. But, if the Constitution had intended to give to Congress so delicate a power, it would have been expressly granted. That it was a delicate power, and ought not to be loosely inferred, Mr. L. said appeared in a strong light, when it was said, and could not be denied, that to determine the manner in which a citizen may relinquish his right of citizenship, is equivalent to determining how he shall be divested of that right. The effect of assuming the exercise of these powers will be, that by acts of Congress a man may not only be released from all the liabilities, but from all the privileges of a citizen. If you pass this bill, said he, you have only one step further to go, and say that such and such acts shall be considered as presumption of the intention of the citizen to expatriate, and thus take from him the privileges of a citizen. This view of the subject, Mr. L. said, was very much strengthened by the circumstance referred to by Mr. PINDALL, of the proposition of an amendment to the Constitution which made the act of acceptance of a title from any foreign Government a forfeiture of citizenship. That amendment, though not finally agreed to, had the sanction of two-thirds of the members of both Houses, and of a majority of the States; and this concurrence of opinion showed, as far as the opinion of the community could be expressed, that their opinion is, that questions affecting the right of the citizen were

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questions to be regulated, not by the laws of the General or State Governments, but by Constitutional provisions. If there was anything essential to our notion of a Constitution, Mr. L. said, it was this: that while the employment of the physical force of the country is in the hands of the Legislature, those rules which determine what constitutes the rights of the citizen, shall be a matter of Constitutional provision.

In regard to the right of expatriation, it was sufficiently recognised by Congress. After passing laws of naturalization, there could remain no doubt of the acknowledgment of Congress of the principle for which the friends of the bill contended; neither could there be a doubt of the general opinion of the country in favor of it. But it did not follow, that it was necessary, in order to explain this abstract principle, that Congress should go on and declare the circumstances under which and the manner by which the citizen may divest himself of his allegiance. There are innumerable cases of rights, which we do not deny, but should never dream of securing by any act of legislation. We admit the right of rebellion against tyrannical government, and found our revolution and independence on the right of revolt. Yet, Mr. L. said, no one ever thought of passing a law to regulate the exercise of it. In the same manner we admit the right of expatriation, but think no legislation necessary to secure it, even had the Constitution conferred on us the power to pass laws upon the subject.

Though he should still have voted against the bill, yet he should not have risen to oppose it at a moment when the House was fatigued and impatient for the question, if he had not thought the bill more than merely harmless, or unnecessary, or inconvenient. He could see no instance, he said, in which, as it appeared to him, such an act would be employed advantageously to the individual, and for the benefit of the country; but he did see instances in which it might be employed to the prejudice of both. He thought that, in case of conflicts between us and foreign Powers, respecting seamen, for instance, the existence of such a provision on our statute book would produce considerable embarrassment. He supposed several cases, by way of illustration, that of seamen particularly, in which difficulty would be produced by such a law, and which was of itself a sufficient objection to passing it.

In concluding his remarks, Mr. L. said he thought the gentleman from Louisiana had misunderstood the clause of the Treaty with Spain, to which he had alluded. Mr. L. was not, he said, about to defend that clause; but similar stipulations were contained in almost half the treaties of the present century—though he fully concurred with the gentleman in the opinion, that this frequency did not justify them. Did that clause, according to the construction which in practice it had received, mean more than this: That those who serve in the naval or military force of another Power than that of which they are citizens, should not be protected by the nation to which they belong? Mr. L. asked gentlemen

whether, in any case, any country had ever pretended to act on a different principle from this? If an American citizen, for example, engaged in the service of the colonies of Spain, fall into the hands of Spain, he is liable to any punishment in the power of Spain to impose. If, on the other hand, an American citizen in the army or navy of Spain be taken by the forces of the colonies, he, too, has no claim to protection from the American Government. It was true, there was no treaty with the colonies authorizing such a procedure by express stipulation. But, said Mr. L., is there a man in this House, or of the present age in the world, who supposes that, for the want of such a treaty, the colonial authorities would be compelled to respect, as an American citizen, him who took up arms against them as a Spaniard? The fact was, he said, that the clause which had been referred to was a mere sample of the verbiage to be found in all the old treaties; and admitted, more recently, not because there were any peculiar reasons for inserting it, but because there were no particular reasons for excluding it.

Mr. ROBERTSON, of Louisiana, replied at large to the objections of Messrs. ANDERSON, PINDALL, and LOWMEDE, and particularly to the remarks of the latter respecting the clause in our Treaty with Spain. It might have been inserted, he admitted, in the manner the gentleman had suggested; but, in the actual posture of affairs, it had a bearing of unjustifiable severity on the Patriots, subjecting our citizens to death (as pirates) being taken in arms against Spain, instead of subjecting them, as citizens of other countries, to the established laws and usages of war among civilized nations, &c.

Mr. CLAY also took the same view of the clause of the Spanish Treaty, and referred to the case of certain persons arraigned for piracy at Boston, as illustrating it.

The Committee then rose, reported progress, and the House adjourned.

FRIDAY, February 27.

Mr. JOHNSON, of Kentucky, presented a petition of John H. Piatt, late a contractor for supplying provisions to the Northwestern army, in the late war with Great Britain, stating that he expended large sums of money for, and sustained various losses in, the public service, for which he cannot obtain remuneration without the interposition of Congress, and praying that an act may be passed for his relief.—Referred to the Committee on Military Affairs.

Mr. NELSON, from the Committee on the Judiciary, to which was committed the bill from the Senate, entitled "An act to alter and amend an act of the 3d of March, 1817, to establish a separate territorial government for the eastern part of the Mississippi Territory," reported the same without amendment, and it was committed to a Committee of the Whole.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An

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act to increase the salaries of the judges of the circuit court for the District of Columbia;" and they have passed the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army," with amendments; in which bill and amendments they ask the concurrence of the House.

The bill from the Senate, entitled "An act to increase the salaries of the judges of the circuit court of the District of Columbia," was read twice and referred to the Committee on the Judiciary.

The bill from the Senate, entitled "An act providing for the sale of certain lands in the district of Marietta, and for the location of claims and sale of certain lands in the district of Vincennes," was read the third time and passed.

The amendments proposed by the Senate to the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary army," were read and referred to the committee appointed on so much of the President's Message as relates to said officers and soldiers.

**IRISH EMIGRANTS' PETITION.**

The House having, on motion of Mr. TAYLOR, of New York, proceeded to the consideration of the report of the Committee of the Whole adverse to the petition of the New York Irish Emigrant Society, praying to be allowed to purchase a body of public land in Illinois Territory, on an extended credit, on condition of actual settlement, and paying interest on the purchase money:

Mr. TAYLOR moved to amend the report by striking out the word "not," so as to reverse the report.

On this motion there arose a debate, which continued for four hours, in which Messrs. TAYLOR, JOHNSON, of Kentucky, BALDWIN, FORSYTH, DESHA, COMSTOCK, LIVERMORE, TALLMADGE, and SPENCER supported the petition, and Messrs. ROBERTSON, of Louisiana, J. S. SMITH, POINDEXTER, WILLIAMS, of North Carolina, COBB, and MERCER, opposed it.

The question on this motion was finally taken, by yeas and nays, after a full discussion, and decided: For the amendment 71, against it 83, as follows:

**YEAS**—Messrs. Adams, Anderson of Pennsylvania, Baldwin, Bellinger, Bennett, Boden, Butler, Clagett, Comstock, Crafts, Crawford, Cruger, Cushman, Darlington, Desha, Drake, Elliott, Ervin of South Carolina, Floyd, Folger, Forsyth, Fuller, Gage, Hale, Harrison, Hasbrouck, Hendricks, Herkimer, Herrick, Heister, Holmes of Massachusetts, Hubbard, Hunter, Johnson of Kentucky, Kinsey, Kirtland, Lawyer, Little, Livermore, Merrill, Moore, Murray, H. Nelson, Newton, Ogle, Palmer, Parrott, Patterson, Peter, Porter, Reed, Rhea, Rich, Richards, Sawyer, Sergeant, Silsbee, Spencer, Stuart of Maryland, Tallmadge, Tarr, Taylor, Tompkins, Townsend, Upham, Walker of Kentucky, Wallace, Wendover, Whiteside, Williams of N. York, and Wilkin.

**NAYS**—Messrs. Abbott, Allen of Massachusetts, Allen of Vermont, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Bayley, Beecher, Blount, Boss, Bryan, Burwell, Campbell,

Claiborne, Cobb, Colston, Cook, Earle, Edwards, Forney, Garnett, Hall of Delaware, Hall of North Carolina, Hitchcock, Hogg, Holmes of Connecticut, Huntington, Irving of New York, Johnson of Virginia, Jones, Lowndes, McLane, McCoy, Marr, Mason of Massachusetts, Mason of Rhode Island, Mercer, Middleton, Mills, Morton, Moseley, Mumford, Jer. Nelson, T. M. Nelson, Nesbitt, New, Orr, Owen, Pindall, Pitkin, Pleasants, Poindexter, Quarles, Rice, Ringgold, Robertson of Ky., Robertson of Louisiana, Sampson, Savage, Scudder, Settle, Seybert, Shaw, Sherwood, Simkins, Slocumb, Bal. Smith, Alex. Smyth, J. S. Smith, Stewart of North Carolina, Terrill, Terry, Trimble, Tucker of Virginia, Tucker of S. Carolina, Tyler, Whitman, Williams of Connecticut, Williams of North Carolina, and Wilson of Massachusetts.

So the amendment was negatived; and the House resolved, according to the report of the committee, that the prayer of the petition is inexpedient, and ought not to be granted.

SATURDAY, February 28.

Mr. LOWNDES, from the Committee of Ways and Means, reported a bill for the relief of Thomas Hall Jervey; which was read twice, and committed to a Committee of the Whole.

Mr. SERGEANT submitted a joint resolution, authorizing the President of the Senate and Speaker of the House of Representatives to close this session, by adjournment of their respective Houses, on the — day of March next; which was ordered to lie on the table.

**THE EXPATRIATION BILL.**

The House being thin, a motion was made to adjourn; which was lost—ayes 41, noes 67—and the House then again resolved itself into a Committee of the Whole on the Expatriation bill.

The question under consideration being the motion to strike out the first section of the bill, which was as follows:

*Be it enacted, &c., That, whensoever any citizen of the United States shall, by a declaration in writing, made and executed in the district court of the United States, within the State where he resides, in open court, to be by said court entered of record, declare that he relinquishes the character of a citizen, and shall depart out of the United States, such person shall, from the time of his departure, be considered as having exercised his right of expatriation, and shall thenceforth be considered no citizen:*

The debate on the bill, and on topics incidentally introduced by some of the speakers, occupied the remainder of the day. Messrs. COBB, McLANE, FORSYTH, CLAY, JOHNSON of VIRGINIA, and ROBERTSON of Louisiana, engaged in the discussion.

Mr. McLANE, of Delaware, said, that after the observations which had been made by the other gentlemen who had preceded him in debate, he would not have intruded himself upon the time of the Committee, but for the purpose of submitting some views of the subject which did not appear to him to have been yet given, and particularly in relation to our treaty with Spain, which had been rendered important in this discussion. He would therefore ask the indulgence of the Committee for a few minutes, while he urged

those reasons which would induce him to oppose the bill, and support the motion to strike out the first section. He was aware that this was a very favorite bill with the honorable mover, who, no doubt, anticipated much good from a law of the kind proposed. But, sir, said Mr. McL., if I can succeed in convincing that honorable gentleman that Congress have not the Constitutional power to pass such a law, and that, if they had, it would be inadequate to one very principal object anticipated from it, he will, it is to be presumed, not feel very anxious about its fate.

Mr. McL. said he would not, upon the present occasion, either affirm or deny the right of a citizen to expatriate himself, because he did not conceive it to be necessary to the argument of the particular subject before the Committee. He would content himself with inviting the attention of gentlemen generally to the origin and principles of the right, as it had been assumed, and upon which alone it could exist. This, he said, would be absolutely necessary, in order to ascertain the power by which the exercise of the right could either be controlled or regulated.

The right of expatriation, if it exist at all, is a civil right, commensurate with civil society and civil institutions. In a state of nature such a right could not be known, because, in such a state the relation of citizen and country did not exist. Then the inhabitants of the State were not restricted to any particular spot, or subjected to the control of any community; the wide world was before them, and they were at liberty to roam wheresoever they pleased, and select the place best calculated to supply their wants and comforts, and to change it again whensoever they should think proper, either from interest or caprice. It was not until they united themselves into societies and communities, in which their own self-government was merged in civil institutions, that any restraint would be imposed upon this general freedom. In giving up the liberties of a state of nature, and entering into civil society, they necessarily contracted certain mutual obligations, by which the exercise of their natural rights would be regulated. The individual contracted obligations to his community or country, and the community to him, upon which the safety of all materially depended, and which neither could disregard without jeopardizing that safety. He admitted that the happiness of the individual and the community constitute the objects of the association.

It is only necessary, therefore, said he, for the present argument, for me to insist, and to ask gentlemen to concede, what I apprehend will not be denied, that the exercise of this right must be consistent with these obligations: that a citizen should not abandon his country without good cause, or in the necessary and lawful pursuit of happiness; that he cannot divest himself of his duties to his country in the hour of her peril, nor sacrifice all his obligations to her imminent injury and ruin, and therefore that the exercise of the right should be regulated by rules resulting from the nature and force of civil obligations.

The bill now before the Committee would seem to imply the recognition of these principles. It proposes to make the Government a party to the act, dissolving the tie between the citizen and his country, and to prescribe the terms upon which it will consent to the dissolution. Such a right cannot be a barren one. The power to prescribe rules upon any subject necessarily implies the power of judging of the propriety and extent of the rules.

If, then, Mr. Chairman, said Mr. McL., the exercise of the right of expatriation should be consistent with the essential and fundamental principles of civil obligations, and if any regulation of its exercise is to emanate from the civil power, it should proceed from that power to whom the obligation is due; from the supreme or sovereign power of the state or community of which the citizen is a member, and to whom he owes his allegiance. It is to such a power alone that these obligations have any relation. The question then presents itself, Is the Government of the United States such a power, and can Congress exercise it? I apprehend not.

The powers of the General Government are not absolute, but limited; they are confined to certain specified, enumerated objects, raised for especial purposes. The supreme sovereign power is in the people of the United States, acting through the different State governments. Prior to the organization of the Federal Government, the sovereignty of the States was absolute and complete, and the natural and civil allegiance of the citizen was exclusively due to the particular State of which he was a member. By that State alone could the right of expatriation have been regulated.

In its organization, the General Government was Federal, and not National, and, in the extent of its powers, it is Federal and not National; and the natural allegiance of the citizen to his State is neither absolved nor infringed by his connexion with the Government of the United States. He simply contracts certain duties to the General Government, in no degree inconsistent with his allegiance to the State sovereignty. This is perfectly clear, from the nature of the Government. It was formed not by the citizens of the United States, but by the citizens of the respective States, acting as members of their several political communities, and designed for the protection of State rights. A civil relation thus created to the General Government, never can be construed to abrogate the natural relation between the citizen and his State; on the contrary, we find that this relation is in full force in all essential points. The right of the State to require of its citizens militia services, and subject them to trials by court martials; to inflict punishment for the commission of crimes; to regulate the acquisition of property, and the rules and principles of descent, and, in short, to exercise, almost without limit, an authority over the persons and rights of their citizens; but, above all, to regulate and punish treason against the State. The second section of the fourth article of the Constitution of the Uni-

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ted States recognised the crime of treason against a State, by providing for the apprehension of the criminal, though I apprehend such a recognition would not be required to render it entirely clear. The capacity to commit treason against the State, results from natural relation between the citizen and its sovereignty, and, though treason may also be committed against the United States, it results more from the express provision of the Constitution, than from any natural relation subsisting between the citizen and the Government. If, therefore, said Mr. McL., a citizen of the United States could be released from his duties to the General Government, he would nevertheless continue a citizen of the State, and his relation to the State government would be even more absolute than it was before. But, sir, as the States have an interest in preserving the obligation of the citizen to the performance of his duty to the United States, it may well be questioned whether the General Government can release him from those duties without the consent of the State. So long as a citizen remains a citizen of a State, a State has a right to require the power of the General Government in aid of his protection, and it cannot withhold it. This is of the very essence of the compact between the States and the General Government. By this compact, the protection of the rights of persons and property is fairly stipulated, and it cannot be dispensed with, in regard to one, without the consent of all. This compact constitutes the citizens of the State citizens of the United States. The relation to the State government was the basis of the relation to the General Government, and therefore, as long as a man continues a citizen of a State, he must be considered a citizen of the United States. I affirm that the Government of the United States cannot withhold its protection from, or dispense with its duties to any man, while he remains a citizen of any individual State, and that any act of the General Government, absolving him from such duties, would be inoperative.

It then becomes an important question, which this Committee must decide, whether Congress can destroy the relation of citizenship between a citizen and a State?

The only powers possessed by Congress are those enumerated in the Constitution, or such as are incidental to the execution of those enumerated. It will not be contended that the power in question is expressly given; it is nowhere to be found in the Constitution; and, as was well remarked by the honorable gentleman from Kentucky, (Mr. ANDERSON,) it is not necessary to the execution of any express power. I cannot discern any reference which it has to either the powers or objects of the Government.

The fundamental object of the General Government being shown to be the protection of the States in their sovereign rights, the measure now proposed would appear to be opposed to the object, since it tends to sever the ties by which the State communities are held together, and puts the citizen beyond the protection of both the State and the General Government. Such a power,

carried to an extent easily conceivable, might interfere, materially, with State rights, and drain the States of their population, against their evident policy, and contrary, perhaps, to their express laws. Sir, I do not know whether such a law as is now contemplated, does not go the whole of this extent; it annihilates the authority of the State over the citizen, without its interposition, at the mere will and pleasure of the individual. It cannot, reasonably, be imagined that the States ever designed to surrender this portion of their sovereignty; it strikes immediately at the root of their existence, and does not in any degree conduce to the objects of the Union.

There is no instance in which the General Government possesses any control over the personal rights of the citizen, in his relation to the individual State. Such is always exclusively the object of State jurisdiction. The instances in which it can exercise a power over the persons of individuals, at all, are few, are confined to their relations to the Federal Government, and expressly defined in the Constitution. But the power of regulating expatriation, implies indefinite supremacy over the personal rights and effects of the individual, in all their relations.

Each State in the Union is a distinct, independent sovereignty, and without some provision to the contrary, a citizen of one would be a foreigner in another, liable to all the disabilities of that situation. It was essential, however, for the great purposes of the Union, that such an inconvenience should be guarded against, and it was therefore declared, that "the citizens of each State should be entitled to all privileges and immunities of citizens in the several States." It was this provision that dictated the necessity of vesting in Congress the power "to establish a uniform rule of naturalization," lest the interests of one State might be jeopardized by an improvident admission of citizens into another. But, even this power of naturalization would not have been possessed, unless it had been expressly delegated. There is, perhaps, nothing more necessary and natural to a sovereign State, than the power of admitting foreigners to the rights of citizenship. It was therefore inherent in State sovereignty, and surrendered for the reason mentioned. But the power of divesting the right of citizenship, and of regulating the exercise of the right of expatriation, is one of a very different character, productive of different and important consequences, equally an attribute of sovereign power, but in no degree connected with the power of naturalization, and therefore cannot be supposed to have been surrendered at the same time. I conclude, therefore, said Mr. McL., that Congress, having no power to destroy the relation between a citizen and his State, cannot, Constitutionally, pass any law that could denaturalize him from the United States.

But, sir, said Mr. McL., if it were perfectly clear, that Congress possess the power, the exercise of it, at this time, and in the manner proposed, would be highly unwise and inexpedient.

He begged leave, in the first place, to remark,

that this was a novel attempt. It was not justified by the example of any other nation, nor demanded by any particular reason, at present existing in the affairs of our country, in the condition of our people, or the nature or extent of our population. The reasons should be cogent to require any legislative interposition in such a subject. It would be enough to recognise the right, and leave it to its ordinary exercise. It is one of those delicate and extreme rights which shake the foundations of civil Government. Legislative interference can effect no good, but may produce much harm. The exercise of the right of expatriation looks to a state of things always to be deplored; it pre-supposes some fault in the country deserted, or discontent or disaffection in the member abandoning it. He spoke here of *expatriation*, and not of *emigration*. No man should entirely abandon his country, without good cause, and no country should increase the facilities of doing so, until she was in a situation to dispense with her citizens consistently with the happiness of both parties. By encouraging the practice of expatriation, we strip it of the guards with which its own nature has surrounded it, and not only render it excusable but even fashionable to abandon one's country at any time and under all circumstances. By this bill a man throws off his country, with the same facility that he lays aside his coat, and with little more form or solemnity. The effects of such a system would be to weaken the love of country, so necessary to individual happiness and national prosperity, the great basis of our Republican institutions.

It appeared to him that, in the present situation of the United States, it was our policy to encourage emigration hither, rather than to throw open the door of expatriation from the country. Our immense tracts of unsettled land, and a sparse population, invite the industrious of all nations. Our manufacturing interests are competent to employ more industry than they can command; the labor of our country bears no proportion to the demand, and every sort of skill and industry may find ample and profitable employment. In this situation of things, the inducements with the citizen to remain, are equal to those on the part of the Government to preserve him, and he should be encouraged to pursue them.

Mr. McL. said, the manner and effect of this bill were equally objectionable on the score of expediency.

It turns the citizen at large, upon the world, for all objects good or bad, without home and destitute of a country. It enables him to cut himself loose from the ties of civil life; an enemy to the laws of all nations, entitled to protection from none! It does not require him to go in the pursuit of business or happiness; he is not obliged, first, to select his residence, or become the citizen of another country, but from motives of caprice or ill humor, he at once exonerates himself from every sort of civil obligation. The commission of treason, and the objects of plunder and spoil, are equally legalized by this bill. He may go forth "*hostis humani generis*," and

seek his subsistence by preying upon the property of others. Sir, we cannot pass such a law, consistently with our own dignity as a great nation, or with the duties we owe to the rest of the world. It would be an act of folly to expose our citizen to expatriate himself to the injury of his own country, and a disregard of justice, to permit him to do so to the injury of others. By this bill, a citizen may be reverted to a state of nature. Nay, sir, in relation to the rest of society, to a condition infinitely worse. What is there to prevent such a man from depredating upon his own country, after that country has voluntarily absolved him from all his obligations, without requiring proof of any legitimate object upon his part?

He begged gentlemen to consider to what such a system may lead. By this bill, the restless and enterprising spirits of the country, instead of being directed to industrious occupations at home, are furnished with the means of gratifying the most improvident schemes. They avail themselves of this law, and enter upon a life of plunder upon the ocean; the privateers infesting the seas on our Southern coast may be filled with them. Such a course may not always continue, but it lasts long enough to give them habits and principles of vice inimical to civil life. When the system of plunder can be no longer pursued, what is to become of them? They can find no resting place abroad, and naturally turn back to their repudiated country, to the families and friends formerly deserted, and thus, after sending them forth to be tainted in the schools of depravity and licentiousness, we are compelled to receive them back, to pollute society with their example. It cannot be expedient to pass a law which may be productive of such consequences.

The principal reason which has been mentioned in favor of passing this law at the present time, said Mr. McL., was, in his opinion, the strongest objection that could be urged against it.

It is said that, under our treaty with Spain, a citizen of the United States, taking a commission from the enemies of Spain, is to be treated as a pirate, and, because our citizens are in the habit of embarking in the cause of the South American patriots, we should get rid of the rigor of this treaty, by enabling such as may think proper to go, to cease to be citizens of the United States.

He was not prepared to say how far Spain would be compelled to respect a municipal regulation of this description, but he thought this particular circumstance superadded to our general obligations of neutral justice and policy. The United States, he said, was bound to execute the treaty in good faith, and could not, by any indirect act, evade it. Without this law it is admitted, it would be unlawful for our citizens to engage in the controversy, and they would be liable to be punished if they did. The law is, therefore, to enable them to violate the treaty. We are, by an indirect measure, to dispense with neutral obligations by which we would otherwise be bound. I insist, sir, said he, that, in this way,



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we become a party to the contest, and injure our faith. He was not hostile, he said, to the cause of these patriots; he wished them success in their struggle; it was an object worthy of success, and if they are capable of enjoying civil liberty and a free Government, he hoped they would obtain them. Nor did he feel any predilection for Spain, certainly he had no reason to entertain any; but he did feel an interest in the honor and reputation of his country, and was unwilling to do an act by which they might be tarnished. He believed there was no necessity to multiply causes of dispute with Spain; they were likely to be sufficiently abundant; but, said he, let us be blameless, let us have nothing wherewith to reproach ourselves. Let us not do covertly what we should be unwilling to do openly and in public. It has been said that this provision in the treaty is void; that Congress alone have the power to define piracy. Then, sir, said Mr. McL., if it be so, there is no occasion for this law to evade it; if the treaty be void, no punishment could follow its violation on the part of a citizen.

Mr. McL. said, he would not stop to discuss the Constitutional question, nor how far Congress would be bound to pass a law, in execution of the treaty; he would merely remark, that the treaty does not define piracy. It is a contract between the United States and Spain, containing a stipulation which the parties had a right to make, and annexing the punishment of a pirate to the violation; but it does not constitute the offence *piracy*. Much less does it undertake to define the crime of piracy generally. But, at most, the punishment only would be void, which relates to the individual simply; the stipulation upon the part of the Government, would, nevertheless, be obligatory upon the United States.

What he meant to say, was, that, without this treaty, this nation could not, consistently with her neutral obligations, do any act to encourage her citizens to take part in the contest between Spain and her colonies. She could not, perhaps, absolutely restrain them, though they would take the consequences of their own acts. Without this treaty, Spain would have the right to consider a citizen of this, or any other country, privateering against her commerce, under a commission from her colonies, until they have established their independence, a pirate. Under such circumstances, any nation, would so consider him. Spain certainly does not recognise the independence of these colonies; no nation in Europe has yet acknowledged them. Our own Government has not done so, and until the proper branch of the Government has acknowledged them, the judicial tribunals of the country could not so consider them. Their commissions, would, therefore, be void, and the man found plundering on the ocean under them, would be a pirate.

But, said Mr. McL., this bill would not even effect the object which it is intended to answer. It would place the citizen in a worse situation, in this respect, after he had availed himself of the provisions of the law, than before. If Spain would treat as a pirate a citizen of the United

States, found in the service of her colonies, *a fortiori* would she view him in the same light when he could no longer seek our protection. A man, who should take the benefit of this law, and become what may be termed a citizen of the world, would be the victim of any Power, who should please to visit upon him her cruelty or resentment. Let me ask then, sir, what would be the condition of a repudiated American, captured in the service of the patriots? Owned by no country, owing allegiance to none, an outlaw from all nations, and a fugitive from the country of his birth, and what would be his claims to clemency or even justice? If, as to him, the laws of civilized warfare be disregarded, and a cruel arbitrary power be exercised, who is to interfere? Not the nations of Europe, for in his fate they have neither any interest or sympathy; not the United States, for they have voluntarily dissolved their obligation, and committed him to his destiny. I repeat it, therefore, sir, that this bill would not answer the end which has been attributed to it; it would tempt the enterprising to greater danger, and lure the ignorant to ruin!

Mr. McL. said, we were to consider this law as a permanent system, and we should look to the effects it may have upon our own country. Some have already been adverted to; others may be mentioned. It furnishes to the corrupt and profligate a much more easy avenue to escape from the restraints of justice, and from the most ordinary individual responsibilities, than is consistent with individual interests or public morals. The indolent and depraved may, by it, be enabled to throw a numerous family upon the public charity, and escape themselves to the walks of folly and licentiousness.

In a crisis of public difficulty and danger, it may prove very embarrassing to the country. Such a crisis has occurred, and it may, therefore, occur again. In our late war, it became the duty of the nation to put forth the strong arm of its power, and command a large physical force; the ordinary revenues of the country, and liberal pecuniary rewards were insufficient to fill the ranks of our armies, and, had the war continued, it would have been absolutely necessary to have impressed our citizens into military service; gentlemen will recollect, that such a measure was actually proposed. But, should such a crisis ever arise in future, is there no apprehension that many would be found to evade the danger, under the facilities of the expatriation law? When we consider the nature of that portion of society, upon which such a system would most likely fall, the numerous classes of the community unrestrained by the ties of property or the influence of pride, and the powerful disrelish which some men have to military life, it is reasonable to conclude that such, in many instances, would be the case. Let us not then, sir, introduce a system, exposed to such evils, and in a great measure legalizing the commission of them.

Mr. McL. said, that he had not intended, when he rose, to occupy so much of the time of the Committee—he considered the subject of very

great importance, and fraught with evils of a most serious magnitude. He concluded by expressing a sincere hope that the first section of the bill would be stricken out.

Mr. JOHNSON, of Virginia, said he felt humiliated by the debate which had taken place on the subject now under deliberation. To hear the old feudal doctrine of perpetual allegiance advocated on this floor, said Mr. J., as it has been by the gentleman from Delaware, (Mr. McLANE;) the doctrine resulting from a system which, from time immemorial, has borne down and oppressed most of the wretched subjects of Europe. A doctrine which was unknown in England, until the reign of William the Conqueror; who, by great art and address, prevailed upon the English people to adopt the feudal system, from which the doctrine of perpetual allegiance sprang.

I had not expected at this period of peace, tranquillity, and prosperity, when it is said that no distinction of party exists, when all are pretending to crowd into the Republican fold, to hear the fundamental principles on which this Government rests for its support, questioned, much less denied to exist. Although no person has had the hardihood to deny the right of the citizen to expatriate himself, yet arguments are used, which, if they be correct, go conclusively to prove that the citizen cannot and ought not to enjoy the means essential to the exercise of this right. The gentleman from Delaware (Mr. McLANE) contends that allegiance is a contract between the citizen and the sovereign power of the country, which cannot be cancelled without the consent of both the contracting parties. He then charges the honorable gentleman from Louisiana (Mr. ROBERTSON) with introducing the bill on your table, in order to aid the patriots of South America. I well recollect the introduction of a similar proposition, by the gentleman from Louisiana, during the Thirteenth Congress, and the effect at that time produced on the Federal gentlemen of the House. Our attention is invited by the gentleman from Delaware (Mr. McLANE) to the deplorable situation of the country during the late war. The difficulties we had to encounter in raising an army are described in glowing terms. Our being driven almost to the adoption of a system of conscription is artfully introduced. And we are gravely admonished by the gentleman that if we pass the present bill—in the event of another war, another period of difficulty—to avoid fighting the battles of their country, of asserting its honor, defending its liberty and independence, our citizens will avail themselves of its provisions, and exercise the right of expatriation. Can this be possible, Mr. Chairman? If it be, I hope it is confined to the citizens of the State of Delaware. I am confident that no Virginian would ever abandon his country in the hour of danger, would ever expatriate himself, to avoid fighting her battles, defending her honor, her liberty, and her independence. If, however, there be such an one, I should have no difficulty in fixing his doom; I would furnish him the means of expatriating himself to a region from whence he never should

return. Is there any man who would dare to avow such a principle? No sir. He would shrink from the light like the recreant felon. He would dare not meet the scrutinizing eye of investigation. I hope there is not a square foot of soil within the jurisdictional limits of the United States which nurtures such a miserable and depraved wretch.

What, sir, is the true question for the Committee to decide? Do the citizens of the United States possess the right to expatriate themselves? Has Congress the power to legislate competently on the subject? and is it expedient that a complete and perfect act of legislation shall now take place? I answer that the citizens of the United States do possess the right in the most ample, unlimited, and unlimitable degree. If I be asked from whence I derive the right—I point to Heaven. It is in that great charter by which nature secured to man the right to seek happiness wheresoever he could enjoy it. I would disdain to derive the right from any of the little petty sovereignties or Governments on earth. Does it require any act of the Government to enable the citizen to exercise and enjoy this right? I contend not. The moment a citizen changes permanently his residence, and takes the oath of allegiance to the Government of the country in which he has fixed his permanent residence, he has exercised this right. All claims of the Government which he has abjured cease to exist. But the decisions of our courts are cited—a long case has been read, the case of Jonathan Williams, who had regularly expatriated himself from Virginia, and become a citizen of France, and who was tried and punished by one of our Federal courts. The remedy is at hand. It was an act of tyranny and oppression for which the judge ought to have been impeached. As it respects the right, this is a plain question. No man has, no man will dare openly to deny it. The warmest advocates of the feudal system—the warmest friends of English principles and English law will not deny the right. How does the conduct of England agree with the dictates of her jurists? Two years' service in their navy, *ipso facto*, makes an alien, a foreigner, a citizen of England. Can any Government presume to naturalize foreigners and deny the right of expatriation? Such pretence ought to subject a Government to ridicule and scorn.

But, sir, has Congress the Constitutional power to legislate on this subject? Here, I am sorry to remark, that those who profess Constitutional scruples, as they are called, are treated with derision. It is not the first time that such unfashionable scruples have been thus treated during the present session. The honorable SPEAKER has told us that nine out of every ten questions decided during the present session have produced these qualms and scruples. He very satirically remarked, that he hoped that, in the course of one hundred years, all these doubts and scruples would be settled. I fear they will, sir. A member here has two tribunals to whom he is accountable. He is accountable to his immediate con-

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stituents for the faithful discharge of his public duties; he is accountable to a different and a higher tribunal, for the discharge of those duties which pertain to his conscience. But, sir, how can Congress, by its act, dissolve the ligament which binds the citizen to the government of his State? destroy the rights of person and property, secured by the government of the State? change the rules of evidence by which the rights of citizens of the same State in the courts of the same State are to be decided? Although I was not on the theatre of public life during the existence of the Stamp Act, which passed during the Administration of Mr. Adams, sometimes called the Reign of Terror, (I think very properly,) I very well remember the excitement produced in Virginia by that act. It was contended to be a violation of the Constitution of the United States, and an infraction of the State authorities, because it changed the rules of evidence by which the rights of citizens of the same State in the courts of the same State were to be decided. Will not precisely the same effect result from the passage of the bill on your table? Put the case that a citizen of a State should regularly pursue the provisions of that bill, in the event of its being enacted into a law, and should expatriate himself from the United States. If the powers of Congress to enact such law be Constitutional, could the citizen, after having expatriated himself, hold real estate in any State within the Union? Should he claim title to real estate, either by descent or purchase, and attempt to assert his title by action, would he not be met by the objection that he was an alien and incapable of taking and holding real estate? That this would be the result is unquestionable. This, then, is a measure which, if adopted, would interfere with the municipal regulations of the States—would be calculated to destroy rights not derived from the Government of the United States, and to discharge obligations not due to the United States. Believing, as I do, that no such power exists in the Congress of the United States, I am constrained to vote in favor of striking out the first section of the bill. But, sir, I hope Congress will not legislate on the subject in such manner as to cast the slightest shade of doubt on this right of the citizen—which I consider perfect and inalienable. Introduce but the doctrine of perpetual allegiance, that baleful scion from the odious stock the feudal system, and you will have tolled the death bell to the liberties of the people of this country.

Mr. McLANE again rose, in reply to Mr. JOHNSON, of Virginia. He said, that he should not again have troubled the Committee with any further remarks, especially in reply to the member (Mr. JOHNSON) who had just resumed his seat, if that member had not been pleased to refer to him and the State he had the honor, in part, to represent. Mr. McL. begged leave to assure that member that he would at all times find the people of Delaware, collectively and individually, ready to assert and defend their rights, and the honor of their country. The conduct of the

people of that State, during the last war, was a pledge of their disposition upon this subject.

Mr. McL. said, he did not refer to the conscription law, with a view of reviving party heat and animosity. He felt too much the importance of the present state of feeling in the country, to disturb it. He believed the prosperity of the nation greatly depended upon a temperate state of parties; and deprecating, as he did, the violence of party heat, he should be the last to revive it, though he should never shrink from an avowal and maintenance of those principles which he had always professed and cherished, whenever a proper occasion should present itself.

In regard to the conscription law, it speaks its own character, and the inference could not be avoided. It was the last resort of the Government, and the ranks could not be filled without it. If soldiers could have been procured for patriotism or money, in any part of the United States, he presumed the Government would not have recommended a measure by which they were to be forced into the service. He did not mean to censure the Government for advising the measure. He believed an occasion might exist when it would be necessary to exert the whole physical force of the nation, and in such a crisis he thought the Government would be justified in using all the means in their power. But, Mr. McL. said, he did insist that the man who would serve his country in the hour of her danger, only by the means of force, would elude that force if he could, even by an expatriation law, and he should not descend to inquire in what State or district in the United States he might be found.

Mr. COBB, of Georgia, said, the object of the bill under discussion was not to change any known law, acknowledged to be in force in the United States. Its object was to declare that the principle of perpetual allegiance, known only to the common law of England, so many of the other principles of which, are in force, has no binding efficacy upon the people of this country. In reasoning upon such a law, said he, it is indispensably necessary that all terms necessarily used should have a definite and clear meaning attached to them.

By allegiance, as it is explained by the judges of our own courts, and as it is defined by those who have preceded me in debate, we mean, "that tie by which the Government and the citizen are connected;" from which protection is promised, and submission expected; protection being the duty imposed upon the Government, and submission upon the citizen, with their corresponding duties. Expatriation is the dissolution of this tie; it is the act of throwing off the character of citizen—of declaring that protection is no longer expected, and consequently claiming to be freed from the duty of submission. The friends of this bill, of which I am one, say that the citizen can, as a matter of natural right, exercise this act of expatriation whenever he pleases, and that of this right no human laws can deprive him. If I understood the gentleman from Virginia, (Mr. PIN-

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DALL,) even he does not deny the power of the citizen to exercise this right, and yet, in the next breath, he attempted to prove that there was no such right; that there is and must be, in every citizen, a principle of gratitude so eternal in its obligations, as that it cannot be discharged. What is this but the English common law upon the subject? The gentleman has used almost the very words of Sir William Blackstone. He ought also to have adopted the reasons of the same writer, and have traced this gratitude to the principles of universal law, preached by himself only, and which no other can understand. To me this principle of universal law is so utterly incomprehensible, that I have heard of but one thing more supremely ridiculous, and that is, the "immaculate purity of the Spanish monarchy," about which we have learned something from the pen of the Spanish Minister, during the present session. Such a principle of universal law is a twin brother of this immaculacy, and no head but such as could comprehend the latter is able to understand the former. It was to be hoped that doctrines like these were out of fashion; but, like Judge Ellsworth, the honorable gentleman from Virginia cannot dispense with the common law, or rather that part of it which does not and ought not to prevail in this country, for the best of reasons, that it is not founded in common sense.

I would not be understood as denouncing the common law; on the contrary, in its genuine principles I find a safe and sure guarantee of the best rights of the citizen.

But even in England the absurdity of the doctrine of perpetual allegiance is obvious, because of its inconsistency with other principles equally admitted, and founded in better reasons. England also maintains the doctrine of naturalization. What is naturalization but the act of conferring upon a foreigner all the rights of a citizen, by the acquisition of which he at the same moment imposes upon himself all the duties of a citizen? Can there be such a thing as the naturalized citizen of two States? Can all the duties of the citizen be claimed by two States, each having a just right? Certainly not. For the act by which all the rights of citizen are acquired, and all the duties are imposed, necessarily presupposes that all connexion between the individual and any other State, is dissolved. Wherever naturalization, then, is permitted, the right of expatriation is admitted; and all measures which have a tendency to curtail this right is tyranny. The creatures of kings, and the slaves of despots, may venture to assert a contrary doctrine, but it ought never to come from the mouths of freemen.

The right being admitted, the next inquiry is, can the manner of its exercise be pointed out by law? Many gentlemen, equally friendly to the principle, doubt the Constitutional power of Congress to legislate on the subject. For myself I entertain no doubt. In my opinion, it is clearly incidental to the power of establishing "an uniform rule of naturalization." It necessarily results from it—it is, indeed, a correlative power. For, if Congress can establish a rule by which

the rights of a citizen may be acquired, the power to prescribe the rule by which these same rights may be relinquished, is a necessary and unavoidable result. It is an incident, having a direct connexion with the defined power, and growing out of it; the one cannot be conceived without the other. In the case of naturalization, the rule is prescribed by which an act of the individual may be performed. The bill under consideration does no more. It is the simple declaration of the manner in which a voluntary act, in the exercise of a natural right, may be performed. To suppose that Congress have a power to declare to the citizens of other Governments that they can prescribe the manner in which, by the performance of certain acts, citizenship in the United States may be acquired, and that the same Congress have no power to declare the manner in which they may be relinquished, is to me incomprehensible.

But a gentleman from South Carolina (Mr. LOWNDES) seems to think that our rule of construing the Constitution should be more rigid, in cases where the law to be made is to divest a citizen of his rights. According to my view of this law it has no effect upon the right, other than its admission; it imposes no restraint; it requires the performance of no conditions as necessary to its exercise. It is simply declaratory of a manner of its exercise, leaving to the citizen a discretion of power to do it or not, as he pleases. But the gentleman from South Carolina thinks that the gradation from such a law to a presumption of relinquishment of the right of citizenship, is extremely easy, and therefore that this law is objectionable. The truth is, that at this time we can only arrive at a knowledge of the exercise of this right by such a presumption as he wishes to avoid. It is to remove any difficulties arising from such presumption, that this law is introduced. At present, when a citizen has left the country and entered into a foreign service, or taken the oath of allegiance to some other Government, we presume he has expatriated himself. But even our courts of justice will not receive this as conclusive evidence of the fact. The same gentleman, however, is apprehensive that it may place a citizen in the situation of an outlaw—that is, that he shall be the citizen of no country; that, having relinquished his citizenship in the United States, he will, until he has performed some act by which he becomes a citizen of another Government, be, as it were, a citizen of the world. Was the act of expatriation the act of the Government, the reason would have weight. But when it is considered that the citizen is placed in this situation by his own act, without constraint, it strikes me that this Government should not be very anxious about his fate or his situation. The anxiety and the care of the Government ceases at the moment it is released from the duty of protection.

Another gentleman from Kentucky (Mr. ANDERSON) has supposed this right to be so perfect that Congress cannot legislate upon it. Did no difficulties attend its exercise, I admit there would be no necessity to legislate. But I cannot

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conceive that, when there are difficulties, any rights can be so perfect as to render their protection by law unnecessary or improper. The principal design of legislation is to guarantee and to protect these rights when violated. In vain may it be declared that the rights exist, if the manner of their exercise is not pointed out. Equally unfounded is another argument from the same gentleman, that this law would embarrass the right. Did I believe so it should have my negative; but, inasmuch as the law does no more than to point out a plain and easy manner of performing the act, I cannot conceive that the right exercised in that act is embarrassed, especially as the law does not declare it is the only manner.

The honorable gentleman from Virginia (Mr. PINDALL) seems apprehensive that the law will have some effect on State sovereignty. I cannot conceive that it will. Is it possible to become a citizen of the United States without becoming a citizen of some State or Territory at the same moment? I presume not. It is much more certain and evident, that when a person has renounced the character of a citizen of all the States, he cannot thereafter, until naturalized, according to the Constitution and laws of the United States, claim to be the citizen of any State. State sovereignty, then, as retained after the adoption of the Federal Constitution is not affected by this law in any way. But I am more astonished at this honorable gentleman's declaration that no instance of expatriation can be shown. Without pretending to much knowledge of history, I will call the gentleman's attention to three cases. Prince Eugene was a Frenchman, yet he commanded the German armies against France, and was considered a German officer. Marshal Saxe was not a Frenchman, yet he commanded the French armies against his own countrymen, if I am not mistaken. General Patkul was born in the Swedish dominions; it was his misfortune to be taken prisoner by Charles XII, while engaged in war against him. The King of Sweden upon that occasion adopted the English doctrine, and caused him to be put to death, and for that act drew upon himself the execrations of the civilized world.

It remains for me to show the necessity of legislating upon this subject. Had no difficulties arisen heretofore; had this natural right never been denied, no such necessity would exist. But it is the misfortune of the country, that even a change of Government, and forty years of independence, have not been sufficient to eradicate our deep-rooted prejudices in favor of English laws and English doctrines, however incompatible with the principles of our free Constitution. They are manifest even upon this floor, and on this very subject. The common law, in all its provisions, has been the theme of panegyric. As I before observed, I do not deny the benefits resulting from the adoption of such of its principles as are founded in the laws of nature and the reason of mankind, and to such even the Federal Constitution has a due regard. [Mr. COBB here read the 5th, 6th, and 7th articles of the amend-

ments of the Constitution.] But the right of expatriation has been denied, in express terms. It was denied by Judge Ellsworth, in Williams's case, 2 Dallas 82. [Mr. COBB read the case at length.] What security, then, is there that this right will not again be denied, or what better evidence can be given that it will be denied than that it has been denied? Other judges have, to be sure, explicitly admitted it, and among those are some of the judges of the Supreme Court. But they have different ideas upon the subject. One takes one view of the subject, concerning which another entertains doubts. One supposes that the right is inalienable. Another cannot go so far. One thinks it may be exercised in time of war. This another denies. One supposes that expatriation absolves from all allegiance, and that the subject of it becomes to all intents and purposes a foreigner. Another cannot go so far. One thinks that removal out of the United States, and taking the oath of allegiance to another Government, is sufficient evidence of the exercise of the right. Another thinks this evidence insufficient. Two of them, however, are explicit in saying there is a necessity for some general law upon the subject. [Mr. COBB here read many extracts from Johnson's case reported in 3 Dallas, for the purpose of showing the difference of opinion prevailing among the judges, and the necessity of legislating on the subject.] I am sensible, Mr. Chairman, continued Mr. C., that I have trespassed too long upon the patience of the Committee; my thanks are due for the attention they have given me. I cannot, however, dismiss the subject without expressing my earnest wish that this law may be passed. It is due from the nature and character of our Government. The principle of the bill contains an assertion of one of the great rights of man. In this country only are these rights now understood and asserted. Driven from all other parts of the earth, here has liberty erected her standard, and here only has she found a refuge. There is a glimmering of freedom to be sure in the Southern part of our continent, but it is surrounded by the clouds of ignorance and superstition, which I much fear will ultimately extinguish the flame. My hopes are, however, that these fears will be groundless. Need I say that I am willing by all means, consistent with my duty and love for my own country, to aid the patriots of South America in the struggle in which they are engaged? I am of opinion that the passage of this law will contribute to their aid. It will increase the facilities of adding to the strength of their armies, without involving the United States with Spain, under the treaty with that Power. By that treaty we are bound to restrain our citizens from committing hostilities against Spain. We would certainly not be bound to restrain those who are no longer our citizens.

The question was at length taken on striking out the first section of the bill, and decided in the affirmative, by a small majority.

The Committee rose, and reported to the House this decision; and, after refusing to adjourn, or to

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lay the bill on the table, the question was taken on concurring with the Committee in striking out the first section of the bill, (considered equivalent to rejection,) and was decided in the affirmative—yeas 70, nays 58, as follows:

**YEAS**—Messrs. Abbott, Adams, Allen of Vermont, Baldwin, Ball, Barbour of Virginia, Bayley, Beecher, Blount, Boss, Campbell, Clagett, Colston, Cruger, Cushman, Darlington, Drake, Earle, Edwards, Elliott, Ervin of South Carolina, Folger, Hall of Delaware, Hasbrouck, Herbert, Hitchcock, Hogg, Holmes of Conn't, Huntington, Lawyer, Livermore, Lowndes, McLane, W. P. Maclay, Marr, Mason of Rhode Island, Merrill, Middleton, Mills, Moore, Morton, Mumford, J. Nelson, H. Nelson, Ogden, Ogle, Orr, Parrott, Pindall, Pleasants, Porter, Reed, Rice, Richards, Ruggles, Scudder, Sergeant, Sherwood, Slocumb, A. Smyth, Stuart, of Maryland, Tallmadge, Taylor, Trimble, Wendover, Whitman, Williams of Connecticut, Williams of New York, Wilkin, and Wilson of Massachusetts.

**NAYS**—Messrs. Barber of Ohio, Bassett, Bateman, Bellinger, Bennett, Boden, Butler, Cobb, Comstock, Crafts, Desha, Forsyth, Fuller, Garnett, Harrison, Hendricks, Herkimer, Herrick, Heister, Holmes of Massachusetts, Hunter, Irving of New York, Johnson of Virginia, Jones, Kinsey, W. Maclay, McCoy, Murray, T. M. Nelson, Nesbitt, Newton, Patterson, Quarles, Rhea, Rich, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Sampson, Savage, Sawyer, Seybert, Shaw, Silabee, B. Smith, Southard, Speed, Spencer, Stewart of North Carolina, Strother, Tarr, Terrill, Tompkins, Tucker of South Carolina, Tyler, Walker of Kentucky, Whiteside, and Wilson of Pennsylvania.

The remaining sections of any bill, after the first is stricken out, have usually been disposed of by a motion of course; but, on this occasion, the procedure was objected to by Mr. JOHNSON of Virginia, and by Mr. ROBERTSON, on the ground that the bill was yet capable of amendment, and might be put into a declaratory shape, or amended in some way to recognise the right (acknowledged by all, but controverted by certain judicial decisions) of expatriation. To whom Mr. LOWNDES replied, that the proceeding now proposed was unparliamentary, and would tend to the utter confusion of the proceedings of the House, if sanctioned; since there would be no end to any question, if it could be debated, and solemnly decided, and then again debated and decided.

Before settling this mooted point of order, a motion to adjourn finally prevailed, after being once or twice refused.

#### MONDAY, March 2.

The SPEAKER presented a memorial of the General Assembly of the State of Kentucky, on the subject of the boundary line between that State and the State of Tennessee, praying for the passage of an act directing the proceedings in the Supreme Court of the United States, by which one State having a subject of difference with another, may have the same legally decided.—Referred to the Committee on the Judiciary.

The SPEAKER also laid before the House a report of the Secretary of the Navy on the petition

of Charles Van Dyke; which was read and ordered to lie on the table.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a statement of the names of persons who have received public money for paying the troops in service during the late war, and who have failed to render their accounts in obedience to a resolution of the 18th ultimo; which was referred to the Committee on Military Affairs.

The SPEAKER also laid before the House a letter from Richard Bland Lee, Commissioner of Claims, transmitting reports of the facts in one hundred and three cases, all of the State of New York, with the evidence accompanying each, taken under a second commission, attended by a special agent on the part of the United States. Referred to the Committee of Claims.

Mr. ROBERTSON, of Louisiana, presented a petition of the General Assembly of the State of Louisiana, praying that the titles to lands generally in that part of the said State formerly comprised within the province of West Florida, may be confirmed.—Referred to the Committee on the Public Lands.

Mr. RHEA, from the Committee on Pensions and Revolutionary Claims, made an unfavorable report on the petition of Stephen Clapp; which was read, and ordered to lie on the table.

Mr. PLEASANTS, from the Committee on Naval Affairs, reported a bill authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren; which was read twice, and committed to a Committee of the Whole.

Mr. HARRISON, from the committee appointed for that purpose, reported a bill to extend for a further term of five years the pensions heretofore granted to the widows and orphans of the officers and soldiers who died or were killed in the late war; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. T. M. NELSON, the Committee on Naval Affairs and the Committee on Military Affairs were instructed to inquire into the expediency of amending the laws granting pensions to invalids so as to require of the pensioners evidence of a continuation of the disability which entitles them to pensions at the time of each application for the payment thereof, and to provide also that whenever any pensioner shall accept an appointment of profit under the General Government, his pension shall cease.

The SPEAKER laid before the House a letter from the Governor of the State of Maryland, transmitting a resolution of the General Assembly of that State, respecting the selection and appropriation of a site for the monument to the memory of Major General the Baron de Kalb, ordered to be erected by a resolution of Congress of the 14th October, 1780.—Referred to the Committee of Ways and Means.

Several Messages were received from the PRESIDENT OF THE UNITED STATES.

The first of said Messages is as follows:



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*Emoluments of Collectors.*

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*To the Senate and House of Representatives of the United States:*

The Commissioners of the two Governments under the 4th article of the Treaty of Ghent having come to a decision upon the questions submitted to them, I lay before Congress copies of that decision, together with copies of the Declaration signed and reported by the Commissioners of this Government.

JAMES MONROE.

WASHINGTON, February 25, 1818.

*Decision of the Commissioners under the fourth article of the Treaty of Ghent, by Thomas Barclay and John Holmes, Esqs.*

Commissioners, appointed by virtue of the fourth article of the Treaty of Peace and Amity between His Britannic Majesty and the United States of America, concluded at Ghent, on the twenty-fourth day of December, one thousand eight hundred and fourteen, to decide to which of the two contracting parties to the said treaty the several islands in the Bay of Passamaquoddy, which is part of the Bay of Fundy, and the Island of Grand Menan, in the said Bay of Fundy, do respectively belong, in conformity with the true intent of the second article of the Treaty of Peace of one thousand seven hundred and eighty-three, between his said Britannic Majesty and the aforesaid United States of America.

We, the said Thomas Barclay and John Holmes, Commissioners as aforesaid, having been duly sworn impartially to examine and decide upon the said claims according to such evidence as should be laid before us on the part of His Britannic Majesty and the United States, respectively, have decided and do decide, that Moose Island, Dudley Island, and Frederick Island, in the Bay of Passamaquoddy, which is part of the Bay of Fundy, do and each of them does belong to the United States of America; and we have also decided and do decide, that all the other islands, and each and every of them, in the said Bay of Passamaquoddy, which is part of the Bay of Fundy, and the Island of Grand Menan, in the said Bay of Fundy, do belong to his said Britannic Majesty, in conformity with the true intent of the said second article of said treaty of one thousand seven hundred and eighty-three.

In faith and testimony whereof, we have set our hands and affixed our seals at the city of New York, in the State of New York, in the United States, this twenty-fourth day of November, in the year of our Lord one thousand eight hundred and seventeen.

JOHN HOLMES,  
THOS. BARCLAY.Witness: JAMES T. AUSTIN, Agent, U. S. A.  
ANTH. BARCLAY, Secretary.*Declaration of the Commissioners under the fourth article of the Treaty of Ghent.*

NEW YORK, November 24, 1818.

SIR: The undersigned, Commissioners appointed by virtue of the fourth article of the Treaty of Ghent, have attended to the duties assigned them; and have decided that Moose Island, Dudley Island, and Frederick Island, in the Bay of Passamaquoddy, which is part of the Bay of Fundy, do each of them belong to the United States of America, and that all the other islands in the Bay of Passamaquoddy and the island of Grand Menan, in the Bay of Fundy, do each of them belong to His Britannic Majesty, in conformity with the true intent of the second article of the Treaty of Peace of one thousand seven hundred and eighty-

three. The Commissioners have the honor to enclose herewith their decision.

In making this decision it became necessary that each of the Commissioners should yield a part of his individual opinion: several reasons induced them to adopt this measure, one of which was the impression and belief that the navigable waters of the Bay of Passamaquoddy, which by the Treaty of Ghent is said to be part of the Bay of Fundy, are common to both parties for the purpose of all lawful and direct communication with their own territories and foreign ports.

The undersigned have the honor to be, with perfect respect, sir, your obedient and humble servants,

JOHN HOLMES,  
THOS. BARCLAY.

The Hon. J. Q. ADAMS, Secretary of State.

The second Message is as follows:

*To the House of Representatives of the United States:*

I lay before the House a report from the Secretary of State, together with the papers relating to the claims of merchants of the United States upon the Government of Naples, in conformity with the resolution of the House of the 30th of January last.

JAMES MONROE.

WASHINGTON, February 28, 1818.

The third Message is as follows:

*To the House of Representatives of the United States:*

I communicate herewith to the House of Representatives a copy of a letter from the Governor of the State of South Carolina to the Secretary of State, together with extracts from the journals of proceedings in both branches of the Legislature of that Commonwealth, relative to a proposed amendment of the Constitution; which letter and extracts are connected with the subject of my communication to the House of the 6th instant.

JAMES MONROE.

February 27, 1818.

The Messages were severally read, and ordered to lie on the table.

## EMOLUMENTS OF COLLECTORS.

The SPEAKER laid before the House a report of the Secretary of the Treasury, in obedience to a resolution of the 28th of February, 1817, requiring him to report whether any, and if any, what alterations or modifications are required to be made in the several acts fixing the emoluments of the collectors of the customs, naval officers, and surveyors; which was referred to the Committee of Commerce and Manufactures. The report is as follows:

TREASURY DEPARTMENT, Jan. 8, 1818.

In obedience to a resolution of the House of Representatives of the 28th of February, 1817, requiring the Secretary of the Treasury to report to the House, at their next session, "whether any, and if any what, alterations or modifications are required to be made in the several acts fixing the emoluments of collectors of the customs, naval officers, and surveyors," I have the honor to report:

A general arrangement for regulating the emoluments of the officers of the customs throughout the United States, according to the services which they are respectively required to render, the expenses to which they are subjected, and to other circumstances, calculated to have an influence upon a subject of this nature.

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Among these circumstances may be enumerated the relative value of money, and the comparative salubrity of the climate in which they are severally called upon to perform their duties.

Proceeding upon these principles, it will be discovered that the emoluments of the collectors in the Southern States must necessarily be higher than in the Northern, or even in the Middle States.

In fixing the commissions of the collectors of Boston, New York, Philadelphia, Baltimore, Norfolk, Charleston, Savannah, and New Orleans, for the purpose of enabling them respectively to receive the maximum of the emoluments to which they are limited by the existing laws, I have been influenced not only by the circumstances which have been already explained, but also by the consideration that in those ports the whole time and attention of the collectors are equally required for the proper discharge of their duties. The principal difference between them consists in the greater or less expenditure of money in clerk hire, which in all of them will be paid out of the public Treasury. In reducing the commissions of the collectors of the large ports, where considerable surpluses have been paid into the Treasury during the year 1816, due allowance has been made for the excessive receipts of that year. The great amount of the revenue arising from the customs during that year must be constantly kept in view, to avoid the danger of overestimating the emoluments to which collectors of the ports next in grade to those which have been enumerated will be entitled. The receipts from the customs for that year have been ascertained to exceed \$36,000,000; whereas, those of succeeding years are estimated at \$20,000,000. There must, therefore, be made a reduction in the commissions of that year, in the proportion of sixteen to thirty-six, in order to ascertain the commissions for any series of successive years, at the same rate of commission.

Taking this rule of calculation for our guide, I am persuaded that the rate of commission proposed in the statement which accompanies this report will not be considered too great.

In many of the small ports, where salaries are allowed not only to the naval officers and surveyors, but to the collectors, no information is possessed except that which is presented by comparing the gross amount of their receipts with the receipts of other officers of the same class, where revenue to nearly the same amount is secured. This rule must necessarily be imperfect, but it is hoped that the local knowledge of the members of the different sections of the Union may correct the inequalities likely to result from that imperfection.

The strong temptation to smuggling which is presented through the whole extent of our inland frontier, and the small amount of the fees and commissions which are received in the districts into which that line of our frontier is distributed, has, from the best information which has been obtained, rendered it necessary to increase the salaries of the collectors of those districts.

In relation to the naval officers and surveyors of the customs, there can be no difficulty in determining that their emoluments are generally an inadequate compensation for the services which they render.

It is therefore respectfully proposed that the fees of office be generally increased twenty-five per centum upon the rates now established by law.

It is also proposed that the fees received by the col-

lector be equally divided between the collector, naval officer, and surveyor; the naval officer paying one-fourth, and the surveyor one-fifth of the expenses of office-rent, fuel, and stationery of the custom-house.

All of which is respectfully submitted.

WM. H. CRAWFORD.

### EXPATRIATION.

Mr. JOHNSON, of Virginia, submitted some additional remarks on the subject, and, after expressing the regret he should feel if the House, during a season so auspicious to a candid decision, were, by the course it should adopt on this subject, led to an erroneous construction hereafter of its sentiments on the right of expatriation; and anxious that it should not be dismissed without the declaration of some affirmative opinion thereon, that would prevent such a misconception, moved, by way of amendment, the following substitute for the remaining section of the bill:

"That whereas sundry persons, who had been citizens of the United States of America, and who had exercised the right of dissolving the connexion which bound them to the United States in the character of citizens, by voluntarily and regularly becoming citizens or subjects of other Governments, have been held bound to answer in the character of citizens, in the courts of the United States, for offences alleged to have been committed subsequently to the exercise of this right, and for which citizens only would be amenable in the said courts. And whereas in the Declaration of Independence of the thirteen United States of America, the following truths are held to be self-evident: That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; therefore be it enacted, and it is hereby expressly enacted and declared, that all men do possess the right to seek their happiness in any climate and under any form of government they may elect; and that, consequently, the right to dissolve the connexion which binds the individual to the Government of the United States, in the character of citizen, and to form a similar connexion with any other Government, is equally inalienable, and founded on truth equally self-evident."

Mr. COLSTON, of Virginia, moved that the whole subject be indefinitely postponed.

Mr. WILLIAMS, of North Carolina, said, that as it had been announced from the Chair that the merits of the original bill were now open for discussion, he should venture to trespass on the attention of the House a few moments. He should not, however, occupy more time of the House, than if a limit had been assigned him.\*

When the subject was first introduced by the gentleman from Louisiana, I thought it, said Mr. W. a measure of indifferent concern. It appeared to me equally unimportant whether it was adopted or rejected by the House; for, according to

\* Mr. Williams had requested to be informed by the Chair whether it would be in order to discuss the question first submitted by the gentleman from Louisiana. The Speaker replied that gentlemen might take just as wide a range in the debate as they should think proper.

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the impressions then upon my mind, very little good or mischief could flow from it. But subsequent reflection has convinced me that it is a measure of serious importance—that it will be “the direful spring of woes unnumbered” to our country. Hence I am impelled by a sense of duty to offer my views upon the subject, though the attempt will be very much against my previous determination.

What occasion is there for a law such as is now proposed? We have gotten on very well in our national career, without the aid or benefit of any measure of the kind. Our fellow-citizens have improved in the knowledge and practice of agriculture; commerce has spread its sails over every sea, and yielded to the Treasury its valuable returns; manufacturing establishments have sprung up in many parts of the country, and seem to be fixed on a basis not to be shaken; a taste for learning and the fine arts has rapidly advanced. In short, our prosperity is unrivalled and unprecedented in the history of the world. From small beginnings, as a nation, we have grown to be a great, a powerful, and happy people; and all this has happened without the intervention of such a law as is proposed by the gentleman from Louisiana. Mr. W. said, that in his individual as well as legislative capacity, he was always satisfied to do *well* in the positive degree; that he should not hold himself guiltless were he to attempt to do *better*, unless perfectly convinced that he should be successful. Will any gentleman undertake to become sponsor for the success of this measure? Will he interpose himself, like a guardian angel, and defend us against all the pernicious effects which may result from the contemplated change in our national attitude? I presume not. Then, sir, I am unwilling to enter on so hazardous an enterprise; I am unwilling to adopt any measure, which, when it is beheld through the vista of futurity—when viewed in all its remote consequences—does not appear perfectly harmless. We now enjoy happiness in a high degree—positive and certain. If we pass this bill, we have no assurance of being rendered more happy, but a probability of being rendered more unhappy. To give a certainty for an uncertainty is at war with all the maxims of common sense in public as well as private life, and this alone would determine me against the bill.

Who wants this bill—the virtuous or the vicious? Let me not be misunderstood, said Mr. W.; when I ask who wants this bill, it is not intended to impute any improper motive to the gentleman from Louisiana, (Mr. ROBERTSON,) or the gentleman from Virginia, (Mr. JOHNSON.) I know these gentlemen too well, not to be convinced that they are incapable of any improper motive. With these gentlemen I am happy to act in concert on most questions before this House. Like them I must on all occasions discharge what I consider to be my duty, and consequently must sometimes differ from them. Therefore I trust it will be considered an honest difference of opinion only, and not a disposition to impute error, when I ask, who wants this bill? The gentle-

man from Louisiana or Virginia do not want—either of them would disdain—to take advantage of it. Does any other honorable gentleman in this House want it? No. Does any honest farmer, planter, merchant, mechanic, lawyer, or physician, want it? No. Every honest man in the country, of whatever occupation or pursuit he may be, would disdain to become the beneficiary of this measure. On the contrary, he would abjure the man who would take advantage of it; he would hold him unworthy of the dignity and blessings attending the condition of a free man—as unfit for self-government, and altogether prepared for the meridian of tyranny. I take it then for granted, that it is not the virtuous, but the vicious (if there be any such) who would avail themselves of the benefits of this measure. Now, sir, is it right that we should legislate for them; that we should pass, for the benefit of the vicious, a law which may involve, if not sacrifice, the interest of every other man in the community? If the interest only of the vicious and abandoned is concerned in the issue of this question, let us stop all further proceedings; for their interest is not worth to the nation one moment of the time of this House.

But if the interests of all classes were concerned, and the measure was thereby rendered an object of national importance, we should be precluded from adopting it for the want of Constitutional power. Mr. W. said he heartily concurred with gentlemen who had taken this exception, because in no part of the Constitution had he been able to discover anything authorizing the exercise of such a power. There were reasons for granting certain powers in the Constitution, and there were other reasons for not granting other powers. The first reason which struck him as being likely to have influenced the Convention not to grant power in this respect, is, that the power of locomotion, or the right of expatriation, is one of those natural and inalienable rights which you cannot regulate without circumscribing it. Well might the convention, under this view of the case, have refused to invest Congress with the power of legislation. It is one of the first laws of our nature that man shall pursue his substantial happiness, his own best good, and, to whatever quarter of the globe he may be invited by his desire for his happiness, or a wish to promote his interest, thither he must be at liberty to go. The Constitution says, all power not delegated to Congress or prohibited to the States, is reserved to the States respectively or to the people. The right of expatriation then must be reserved to the people, as it is not delegated to Congress or prohibited to the States. On no other footing could the convention have left it, because it would have been unsafe to invest Congress or the State Legislatures with a power to regulate or control it. Take, for example, a case, which might frequently happen. You say your citizens shall not expatriate themselves without compliance with certain established forms; they must go before a judge or magistrate and formally renounce their allegiance to the Gov-

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ernment of the United States. From this moment, and not before, they are at liberty, by the provisions of this bill, to leave the country. At present every one of our citizens is free to depart whensoever he pleases. But, pass this bill and he will be restrained. When he wants to leave the country, perhaps in twenty-four hours, he must travel two or three hundred miles; present himself before the judge or other officer whom you may designate, and formally renounce his allegiance to the Government. In this case, is not the right of expatriation abridged? Is not the citizen circumscribed in the exercise of the right? There are many other ways in which the right may be impaired, or the exercise of it circumscribed by the operation of such a law as the one now proposed. In the instance mentioned, it must be obvious to every one, that, instead of confirming and establishing the right, or facilitating to the citizen the exercise of it, you subject him to restraint and inconvenience.

The framers of the Constitution would also have found inseparable objections, against the exercise of this power by Congress, from the nature of our political institutions. We have a General Government, for general purposes, and State government, for special purposes. Our political system is not complete, it is true, but yet it will be found harmonious in all its parts; anything therefore which tends to interrupt the harmony or destroy the machinery of the system, must be inconsistent with the system itself. The allegiance of the citizen is due not only to the Government of the United States, but to the government of the particular State in which he may reside. It was very satisfactorily shown the other day by the gentleman from Virginia (Mr. PINDALL) that if Congress should pass a law giving to the citizen the power of renouncing his allegiance to the General Government, it would not at the same time enable him to renounce his allegiance to the State Government. Pass this bill, then, and you have presented to you the strange anomaly of a citizen renouncing his allegiance to the General Government, but yet remaining bound in allegiance to the State Government. The Constitution of the United States says "the citizens of any State shall be citizens of the respective States." If you pass this bill, a person may renounce his allegiance to the General Government, but yet he will remain a citizen of the State in which he may reside, and consequently of the United States. It appears to me a strange incongruity, a downright absurdity in politics and legislation, that a man should renounce his allegiance to the General Government, and consequently to the United States, but yet, by the constitution of any State over which we have no control, he should remain a citizen of that State and consequently of the United States. Such absurdity will evince most clearly that the framers of the Constitution never intended that Congress should exercise the power for which the advocates of this bill now contend. But there is another absurdity attending it, still more objectionable and dangerous. The Constitution

of the United States says, the members of Congress in each State shall be elected by the persons qualified to vote for members of the most numerous branch of the Legislature in that State.

In North Carolina every free man who has paid tax has the right to vote for members of the most numerous branch of our Legislature. This, sir, is a great and inestimable right, of which I think we may deservedly boast. The right of suffrage with us is not limited to freeholders alone, as in some States. In the exercise of this right, I hope we never shall be restrained or limited, but at the expense both of our treasure and our blood. I know, sir, that the people whom I have the honor, in part, to represent, never can, nor ever will consent to any limitation of the right of suffrage, as secured to them by the Constitution of their own State, and guaranteed by the Constitution of the United States. They hold it to be an invaluable right, and in its defence they would sacrifice their lives and their fortunes. I also know, sir, that the citizens of that State are honorable and virtuous; that not a man in that community would avail himself of the benefits (if indeed they can be called such) of this measure. But, suppose a citizen of North Carolina should renounce his allegiance to the Government of the United States, according to the provisions of this bill. Suppose he should, notwithstanding that renunciation, choose to remain, bound in allegiance to the State of North Carolina, and consequently a citizen of that State. Although he might have renounced his allegiance to the General Government, and have become a foreigner with regard to the United States, yet he would, as a citizen of North Carolina, be entitled to vote at every election for members of Congress, and to participate fully in all the national concerns. You have then presented to you another strange anomaly, of a citizen participating fully in all the concerns of the very Government which he has renounced, and to which he has solemnly declared he will no longer be subjected. This consequence you cannot preclude; and it is at variance with all our notions of the principles of self-government. We proceed upon the idea that, as our citizens are interested in the Government, they therefore have a right to participate in its concerns. But by the operation of this bill, after any one has renounced the Government; after he has solemnly declared to the world that he has no interest in it, and will no longer be subject to it, he is still allowed to partake of its concerns and share in its management. Such results are inevitable and unavoidable, and prove the impracticability of the measure from which they would flow.

The gentleman from Louisiana (Mr. ROBERTSON) who introduced this bill; the gentleman from Virginia (Mr. JOHNSON) who has advocated it, and all the other gentlemen, who have taken that side of the question, concur in the opinion that the measure is necessary for the good of our fellow-citizens! What, sir! will our fellow-citizens thank us for making them

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foreigners? Will they feel grateful for the *compensation* we pay them in supposing they are so tired of our happy country that they wish to become aliens? Shall we believe that, like children, they are surfeited with sweetmeats, and wish to taste the bitterness of despotism? No, sir, I cannot believe this, for I have already shown that no honorable man in these States, no virtuous citizen of the community, can or will take advantage of any such law, that the vicious and abandoned are the only persons who will avail themselves of its benefits. But, if any respectable class of our society should be disposed to alienate themselves, the fact of their doing so proves the absurdity of the law. You profess to legislate for the benefit of your own citizens, but these benefits convert your citizens into foreigners. You ought to legislate for the good of those who remain in the country and continue citizens; but this law is for the good of those who leave the country and become foreigners. I have always understood that the basis of correct legislation is a reciprocation of benefits; that is, the Government bestows a benefit on the citizen; the citizen in return bestows a benefit on the Government; but, by the operation of this bill, the Government bestows a benefit on the citizen, which benefit converts him into a foreigner, and, *ipso facto*, places him in a situation in which he can make no beneficial returns to Government. Sir, let it not be said again, that in passing this bill we legislate for the good of our fellow-citizens. On the contrary, we legislate them out of political existence in our own country; we convert them into aliens; we legislate for foreigners, and thereby destroy the very basis of all legislation, because we bestow a benefit and receive nothing in return. This is another of those incongruous effects likely to flow from the passage of this bill.

But the principle of the bill is fraught with the seeds of dissolution to all human society. Here, sir, let me not be misunderstood; I have more than once already avowed that I admit the right of expatriation. There is no gentleman in this House a stronger advocate for the right than myself. But I admit it, on the principle laid down in the Constitution, which is consistent with the peace of the world and the good of mankind. The principle assumed by this bill is as unconstitutional as it is inconsistent with the peace of human society, and therefore I object to it.

The gentleman from South Carolina, (Mr. Lowndes,) when contending against the necessity for legislation on this subject on Friday, said "the right of expatriation was recognised in the Constitution; that the sentiments of the American people in relation to that right were clearly deducible from the provision in the Constitution giving Congress the power to pass uniform laws of naturalization." Sir, I was pleased to hear that gentleman make the observation, because, from the well known acuteness with which he views all subjects, I was satisfied it must have considerable weight in the decision to be pro-

nounced by the House. Subsequent reflection has strengthened the opinion I then formed, and it is with some surprise, I have understood, that doubts are yet entertained as to the distinctness or sufficiency of that provision of the Constitution. To my mind there can be no doubt. The Constitution declares "that Congress shall have power to pass uniform laws of naturalization." The convention would never have delegated such a power, unless it had been *right* in their estimation that it should be exercised. Congress, pursuant to this delegation of power, have passed "laws of naturalization." If it is *right*, then, that such laws should be passed, it is *right* that foreigners should leave their native country, and become the subjects of naturalization according to the laws we may have passed. If it is *right* that foreigners should leave their native country, and become naturalized citizens of the United States, it is unquestionably *right* that they should *expatriate* themselves. The doctrine of expatriation, and the sentiments of the American people in regard to it, are so plainly inferrible from this provision of the Constitution, that it would be a waste of time to enter more at large into this part of the discussion. For certainly no gentleman will say or think that it would be wrong for foreigners to expatriate themselves, when our naturalization laws invite them to do so. It is not necessary, then, that we should pass any law in order to announce more distinctly to the world our sentiments on the subject.

While we all agree as to the right of expatriation; while we admit that it is natural and inalienable, we may yet differ as to the mode in which it is to be exercised, and the time when it is to attach to the individual claiming it. For my part, I think the principle assumed in the Constitution the only safe and correct rule.

The great difference between gentlemen on the other side of the question and myself is this, that they go beyond the principle laid down in the Constitution, while I wish to be confined within its limits. They say that the right of expatriation attaches to the individual upon his leaving his native country; we contend, on the other hand, that the right attaches not upon his leaving his native country, but upon his becoming the citizen or subject of the country to which he may have gone. The difference between us then is as to the point of time at which the right attaches, and not as to the existence of the right itself.

Mr. W. said, he supposed it would be readily admitted that it was necessary every human being should be subject to the laws of some society. We have yet to learn and practise the doctrine, that reason alone is sufficient to restrain mankind. Though some philosophers of the modern school might contend for this, yet, said Mr. W., the experience of mankind in all ages, and the practice of our own Government, will at once refute such idle theory. If men are not the subjects or citizens of some regularly established Government, they will not be controlled by any law. Absolve them from the restraints of law,

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and, in lieu of peace, concord, and happiness, you introduce error, contention, and misery. He should then, Mr. W. said, take it for granted, that, for the peace of the world, and for the happiness of mankind, it was necessary that every human being should be the subject or citizen of some Government.

Will any law which you can pass make one of your citizens a British subject? No. This must be done by the British Government itself. England, on the other hand, with her fleets and armies to aid her, could not make one of her subjects an American citizen, without our consent. If an American citizen becomes a British subject, it must be by the operation of British laws; and, if a British subject becomes an American citizen, it must be by the operation of some law of the United States. Should an American citizen settle in England, and become a British subject, we acknowledge he has a right to do so, because he has a right to expatriate himself. But any law which you may pass will be of no avail; it will not enable him to become a British subject. Then the right of expatriation does not attach upon the act of his leaving the United States, but upon the act of his becoming a British subject, according to the laws of the British Empire. So, again, sir, if a British subject chooses to become an American citizen, the right of expatriation attaches to him, not on his leaving England, but on his being naturalized, according to the laws of the United States.

Upon this principle has the Constitution placed the right of expatriation. The framers of that instrument looked with a sort of prescience into the consequences of measures. They saw that it was necessary every human being should be under the wholesome, the salutary restraints of law; that this could not be done if the right of expatriation should attach to a person upon leaving his native land; and therefore the provision of that instrument extends only to foreigners naturalized in our country, and not to citizens who may be disposed to leave the United States. If this bill should pass, and every citizen should expatriate himself, do you know the country to which he will go? Will he by the operation of this bill be naturalized in the country where he may think proper to reside? No. But if this bill is passed into a law, may not any citizen of the United States throw off his allegiance, not only to our Government, but to all other Governments? May he not thus become absolved from the restraints of all law, and rendered a pest to society. If he throws off his allegiance to the United States, and does not become the subject of Spain, Great Britain, France or of any other Government, he will not be controlled by any human laws, and is placed in a situation to annoy the peace of the world without the fear of punishment. Suppose this bill is passed; suppose one hundred citizens of the State of Louisiana should take advantage of it, and should become expatriated and let loose from the bonds of our society; they are citizens to-day, expatriate themselves to-morrow, and on the next day turn pirates in

the Gulf of Mexico, or adjacent seas. There is nothing in the law of nations to define the particular number which shall constitute a separate independent Power. When therefore you send your vessels of war to scour these seas, to capture and bring in for condign punishment those who have been committing depredations on your commerce, what will be the result? If you take them, and are about to punish them as pirates, they meet you with your own act in their hands. They tell you "we are not citizens of the United States; we are not the subjects of any other Government; but yet we are a separate and independent Power: we therefore demand of you not to punish us as pirates, but to treat us as prisoners of war." Such will be the effects of the measure proposed. If it is right that we should adopt it, it is equally incumbent on other nations to do the same. The advocates of the measure have asserted, as an argument in its favor, that we should endeavor, by adopting it, to take the lead of all other nations in defence of the rights of mankind; that we should set an example to the people of every other country. Then, sir, if all other nations should enact a similar law, (and it is right they should, if we do it,) what must and will be the consequences? The bonds of social order are dissolved; mankind, instead of being subjected to the wholesome restraints of law in regularly established Governments, are converted into so many gangs of banditti, without reason or rule, mutually preying upon other's lives and fortunes. I know, sir, that such consequences are not anticipated, much less intended by the gentleman from Louisiana, (Mr. ROBERTSON,) or the gentleman from Virginia, (Mr. JOHNSON,) and I hope they will not understand me as impeaching their motives, when I say that this measure tends to the most calamitous results. On most other occasions, I am happy to think and act with those gentlemen, but, on this, I must sacrifice my feelings of friendship for them to my convictions of duty. The difference between them and myself is not wide, but is of the utmost importance. They contend for the right of expatriation, and I do the same. It is the point of time when this right attaches to the individual claiming it, that makes us differ essentially. They think the right attaches to the individual when he leaves his native country. I contend the right attaches, not when he leaves his native country, but when he becomes the citizen or subject of the country to which he may have removed; although this difference may appear small, yet it is essential. Their principle tends to dissolve all human society, because it discharges a person from one Government without subjecting him to some other. My principle tends, I think, to preserve the existence of human society, because it will not discharge a person from one Government till he becomes subject to another. Gentlemen will excuse me for repeating that the principle of the bill is contrary to the Constitution; that it tends to dissolve all government, in releasing men from the restraints of law before it is known to what other countries they



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may have gone, while on the other hand it may be affirmed that the principle for which we contend is Constitutional; that it preserves the existence of government and the happiness of mankind, in not discharging men from the restraints of one society till they have incurred obligations to another. Let not this difference be construed to mean that we deny the right of expatriation. No such thing; for we differ only as to the time at which the right attaches, not as to the existence of the right itself.

The gentleman from Kentucky (Mr. JOHNSON) has told us that the right of expatriation was deducible from the numerous instances of banishment which have occurred in every age. Sir, I have always understood that banishment was to be considered as the infliction of a punishment; as the forfeiture, not as the assertion, of a right on the part of the individual banished. General Moreau, for example, was banished from the French Empire, and it was certainly a punishment inflicted on him by the constituted authority of France. Even this may be cited as an argument in favor of our position. For General Moreau, when banished, had a right to settle in some country where there was a regular government. The nation to which he was banished was bound to receive him. He was not to be turned loose upon the world, but had a right to live under the laws of regular government. Such rights could not belong to the person banished, if it were not necessary (as I before said) for the peace of the world, and the happiness of mankind, that every human being should live under the restraints of some society.

The gentleman from Louisiana told us this measure was necessary to relieve the United States from the teasing importunities of the agents of Old Spain, now in this country. He said our Government was tormented upon the subject of restraining our citizens from interfering with the contest now raging in South America; but, if we passed this bill, we should not be responsible for the conduct of such as had expatriated themselves, and therefore should hear no more importunate representations on that head. Sir, to my mind, this would be a reason for not passing the bill. We know that the state of affairs between Spain and the United States is at this time very critical. So far from attempting anything to induce collision, it would be our duty to protract that event as much as possible. Sir, the gentleman knows very well that we could not be exempt from liability for the conduct of our citizens. Would not the act itself be with Spain a cause of war against the United States? Suppose we were to pass a law declaring that any of our citizens might invade Spain whenever they thought proper, and plunder and bring off the property of her subjects: would not this be a just cause of war? Suppose, again, that, in order not to be responsible, we pass this bill; that a number of our citizens expatriate themselves, and carry on war against the provinces of South America; how much would this differ from a law expressly and directly authorizing them to invade Spain?

Would it not be doing that indirectly which we would not do directly? Certainly, sir, we should be liable in one case as well as in the other. We cannot legalize plunder and invasion, either directly or indirectly. Every nation is responsible to the society of nations for the laws it may pass. If the laws be such as to interrupt, by their necessary and inevitable operation, the peace and security of other nations, they are a just cause for war against the Power so offending. If the law before us would have any operation, or produce any effect, it must be to permit our citizens to interfere in the contest between Spain and her colonies. It will present to them facilities for that purpose, which they do not now possess. Is it prudent or just, in the present critical posture of affairs between us and Spain, that any attempt of the kind should be made? No, sir: our better course would be to steer clear of any conflict whatsoever, either with Spain or the confederated Powers of Europe. Instead of passing laws giving facilities to our people to take part in their troubles, let us stand aloof; let us rather restrain ourselves within the bounds of reason, justice, and sound national policy.

Many more reasons, said Mr. W., might be assigned against the bill; but, as he had already detained the House longer than he intended, he should conclude with expressing the hope that it would be rejected. He did not intend to occupy so much time, because he thought the discussion was limited. But, having understood from the Chair that the whole subject was open, he trusted he should not be considered as obtruding upon the time or attention of the House, in explaining the reasons which would govern his vote. The subject is an important one; it is important in regard to the abstract principle involved in it; it is more important in relation to the practical consequences likely to flow from it, especially in the existing critical state of affairs between the United States and the Government of Spain. Sir, let us do no act which may tend to disturb the present happy and prosperous condition of our country. Let us adopt no measure which directly or indirectly may accelerate the commencement of war between us and any other nation. The effect of this bill, if passed into a law, will, I fear, be to bring on, to hasten collisions between us and the Government of Spain.

Mr. ROBERTSON, of Louisiana, replied, and spoke briefly in support of the opinions he had previously expressed.

Mr. ABBOTT, of Georgia: Before the amendment was proposed, which is now before the House, I voted for striking out the first section of the bill, because I believed Congress had no power to legislate on the subject. Citizens of the United States have a right to choose the best means in their power to secure to themselves the enjoyment of life and liberty; whether they seek the enjoyment in this or any other country. They can be restrained only by the rights of others. A right to remain in this country, or to remove from it, is intimately combined with those general rights of man which were derived

from nature, and which gave origin to this Government. By the exercise of those rights the people devised the Constitution, organized a system of government, and animated it with official power. But while they vested Executive, Legislative, and Judicial power in this organized system, they expressly declared, that they retain to themselves all the rights that are not therein enumerated, viz: "The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people." The people have delegated no power to Congress to define a rule for expatriation. A free exercise of the will in the people, is as unrestrained by the Constitution in relation to expatriation, as it is in relation to their choice of men to fill offices. A right to the free exercise of the human will, on the subject now before the House, is beyond the reach of Congress. It is the gift of God—a right which the people of this country enjoy as free as air, and pure as heaven's blessing. You approach it with unhallowed hands—and were it possible to reach it, the touch would be pollution.

The bill proposes a rule, by which a citizen may absolve himself from allegiance to his country. What is meant by allegiance between the free people of the United States and the Government, is not subject to the interpretation given to it in European States. In England the word allegiance is made to mean a kind of political faith, by which a subject is bound in obedience to the will of his sovereign—and the obligation is considered perpetual and indissoluble. But no such interpretation can be given to it here. In this country the sovereignty of the Government is limited and defined. Its sovereignty is confined to the limited application of power, which the people have delegated in the Constitution to the three great departments; and allegiance due from the people to this sovereignty, consists simply in their obligation to obey the laws that are constitutionally enacted. All other sovereignty is in the people, which is undefined and undefinable. Allegiance, therefore, in this country, consists in an obligation to obey certain defined powers the people have delegated, and that are exercised by the Government—while all other allegiance consists in obedience to their own will. The powers delegated to the Governmental departments amounts to but "a little brief authority," compared to the rightful powers the people have retained to themselves. I therefore consider the people to have the inalienable right to obey the operations of their own will, in any manner not in violation of acknowledged and constituted authorities; and that Congress is not vested with any authority over the right in question. The amendment proposed by the honorable gentleman from Virginia, appears to possess no other efficiency than a mere declaratory expression of the opinion Congress entertains of the right citizens have in regard to expatriation. This is as far as we can go. I have, therefore, made up my mind to vote for the amendment, because it may have some weight in decisions of the courts on subjects of this sort, when it is expressly under-

stood that the Congress of the United States can recognise no power vested in the departments of the Government, touching the right of expatriation.

Mr. JOHNSON, of Virginia, said, he took great pleasure in assuring the honorable gentleman from North Carolina, (Mr. WILLIAMS,) that he reciprocated most completely all the feelings of regard and sentiments of respect which he had been pleased to express for him.

The gentleman's argument, said Mr. J., has been based on the following objections to the proposition under consideration:

1. That it is calculated to circumscribe the right of expatriation, by requiring persons to attend (frequently at a considerable distance) some officer of the Government, to renounce the character of a citizen.

2. That it is calculated to legislate the citizens out of their rights.

3. That the proposition or substitute contains, within its own bosom, seeds of disease and misery to all mankind.

4. That it is calculated to convert the citizens of the United States into a gang of banditti.

5. That a man does not exercise the right of expatriation by leaving the country—but by becoming the citizen of another Government, as Great Britain.

6. Concludes by a supposition, that a law should pass authorizing the citizens to leave the United States, and commit hostilities against Spain; from which supposititious case he derives the most fearful and direful results.

It will be my province to show that no single objection urged by the gentleman is applicable to the question before the House. What, sir, is the question before the House? A merely declaratory provision, calculated to exclude the inference that the Congress of the United States had, by rejecting the bill reported by the honorable gentleman from Louisiana, (Mr. ROBERTSON,) decided against the right of the citizen to dissolve the connexion which binds him to this Government, and seek his happiness in any other country, and under any other form of Government more congenial to his tastes and feelings, or which should meet more completely the sanction of his judgment. The substitute now under consideration prescribes no rule—requires no act to be performed by the citizen preparatory to the exercise of this inalienable right. It merely affirms that to be true, which, in the declaration of our independence, is held not only to be true, but to be truth of that high description which is termed self-evident. That when the right has been exercised, the individual ceases to be responsible in the character of citizen, in the judicial tribunals of the country, for acts which citizens only are bound to answer, and for which alone they are responsible. It does not even fix the rule of evidence by which the exercise of the right is to be tested. It does not even define, or attempt to define what shall furnish evidence, that the individual has exercised the right of dissolving the connexion which bound him to the Government

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of the United States in the character of citizen—a right which all admit to exist.

Is there any attempt or any provision in the proposed substitute which, by the most strained and tortured construction, can justify the idea that the citizens of the United States are to be legislated out of their rights as citizens? Anything which justifies the idea of converting them into a gang of banditti? Anything in this abstract proposition which merely recognises the principles in your Declaration of Independence, calculated to hold out to your citizens inducements to embark in the cause of the patriots of South America, or to commit hostilities against Spain? Can it be pretended that this declaratory act contains a single feature or provision calculated to authorize the citizens of this country to commit acts of hostility against Spain or any other nation? By what magic is it to convert your citizens into hordes or gangs of banditti? It asserts no new principle. It asserts no principle which any gentleman has had the boldness to deny. It claims no right which all that oppose the measure do not admit to exist; yet the honorable gentleman from North Carolina (Mr. WILLIAMS) has contended that this substitute contains in its bosom the seeds of disease and misery to all mankind. How has imagination conjured up such fearful and dreadful phantoms? This substitute is intended to secure the rich fruit to the people of this country produced from the seed sowed during the Revolutionary war—seed sowed by the hands of patriotism, and watered by the blood of the brave and gallant men who achieved for us a freedom which we seem to fear to enjoy. Why are we to be influenced by the relative situation of Spain and her subjects? Has any foreign Government the right to complain of our municipal regulations—the regulation of our internal police? The moment we shall be prepared to admit this doctrine, we cease to hold the rank of an independent nation. The Government of Spain or any other nation on earth has the same right to complain of our form of government, of our Declaration of Independence, as the Spanish Government or the Government of any other foreign country would have to complain of the enactment of the substitute on your table into a law. Shall we change our Government, abjure the principles contained in our Declaration of Independence, in order to propitiate the miserable fanatic who disgraces the Spanish nation by being permitted to reign over it? The truth is, that the gentleman has mistaken the proposition before the House. His arguments might have had some application to the section of the bill stricken out on Saturday, but are perfectly irrelevant to the question under consideration.

Why so much sensibility, so much dread at approaching this subject? Is there any subject connected with the interest, the prosperity, and the happiness, of the people of the United States, which their Representatives fear to approach? Ought there to be any subject which the Representatives of this enlightened, high-minded people should fear freely to investigate? Yes, sir, there

is one on which freedom is not exercised—religion. From my ignorance of the laws of the other States, I must be permitted to refer to the laws of Virginia. Our temple of liberty is a plain one. It occupies, perhaps the middle ground between the rude pyramids of Egypt, and the more elegant structures of Attica and Palmyra. Still it is commodious, strong, and beautiful. Yet there is scarcely a stone in the building which has not been placed or adjusted by our illustrious and patriotic Jefferson, or which has not received its cement from his hand. There is not a pillar in the temple which was not either reared by him, or which did not receive from him its last finish and polish. There is not a great fundamental right which the people enjoy, which did not receive from him some security to perpetuate its enjoyment, and to extend its blessings. The man against whom the tongue of calumny has sometimes dared to express its impotent rage! But his virtues, his patriotism and fame will live, when monuments of brass and marble shall be crumbled into dust and ashes. They will live as long as virtue shall be revered and civilization shall exist.

Our predecessors did not fear to approach this subject. This illustrious and distinguished patriot and statesman, drew the law of Virginia, defining the mode by which the citizens of that State should exercise the rights of expatriation. We have proved by experience, that test of truth, the operation of the law; from its bosom has sprung no plant to disturb the repose of the people of Virginia, or to cast a shade on the felicity of others.

The honorable gentleman from North Carolina (Mr. WILLIAMS) will pardon me for the comparison, but his speech reminds me very much of the practice of the British Government, as contrasted with its doctrine. His arguments have all been founded on a misapprehension of the question before the House. The lawyers and jurists of England are everywhere fulminating the doctrine of perpetual allegiance, whilst the practice of the Government is in direct hostility with the doctrine; a doctrine which was imported into that country by a foreigner, William the Conqueror, who introduced the feudal system, and with it the doctrine of perpetual allegiance. What has been the practice of the Government, or those who administer it? Have they ever hesitated to make their doctrine yield, on all occasions, to policy? Have they even hesitated to import a king when their policy required it? Who was the grandfather of their present wretched and degraded monarch? Was he not a foreigner? How did he discharge the obligation of perpetual allegiance to his former Government? Are they not in the daily habit of naturalizing foreigners? Two years' service in the British navy, *ipso facto*, makes a foreigner a citizen of England. Are they not perpetually inviting and holding out temptations to artificers, and useful mechanics, to become citizens of Great Britain? But, sir, I will not undertake the ungrateful task of reconciling the inconsistencies of that miserable and deluded

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Government—that Government, which has done more to oppress, enslave, and curse mankind, than any other Government on the globe. If all the blood and tears which it has caused to flow, were collected in one grand reservoir, they would float the largest ship in the British navy, with the whole royal family on board.

Mr. LOWNDES spoke much at large in illustration and support of the opinions offered by him previously in the debate, against the original bill, and in reply to various gentlemen who had supported the bill.

Mr. RHEA said the respect he owed to the House, made it necessary for him to state the reasons inducing him to vote as he had done, and would do, on every question arising on the subject under consideration. He said it was with hesitation, and a consciousness of inability to treat the subject as it merited, that he attempted to speak respecting it. He was about to walk, as it were, on holy ground; the subject involved considerations of high importance to the peace and happiness of this nation. Being unwilling to give an affirmative vote on any question arising on this subject, he had voted against striking out the first section of the bill; he desired to meet the principle of the bill by a direct vote.

The word "allegiance" has been used in this discussion. The true intent and meaning of that word may not be the same when applied to governments in which an individual is sovereign, as it is when applied to the Government of the United States. In the former it may be said to signify a binding or swearing to one individual chief, who is sovereign, who is said to be the fountain of power, and can do, as they say, no wrong. In the United States this word "allegiance" may be said to mean that solemn obligation, either express or implied, which every individual citizen is bound by to every other citizen; and, the people being sovereign, the obligation or allegiance of every individual, either express or implied, is to the sovereign people, or, in other words, it is that bond of union that unites the social compact, and collects in one integrity the sovereign people of the United States of America.

If a law be enacted on this subject, will it be of any force? The judges of the Supreme Court of the United States may decide in similar cases, as they have heretofore done; they may deem it expedient to take the Constitution into view, and if they do, will such law be efficient? He said he would give no opinion on this point. The judges would, if brought before them, decide this question. The Constitution of the United States is a sublime principle, operating, in every direction, for good, and conferring political happiness on every one who will choose to live under it. He said he frequently desired to have had power to discover the ideas, relative to each clause, had and entertained by the great men who formed it. That discovery cannot be made otherwise than by contemplating the clauses and words of the Constitution; by comparing things existing, and designed to exist, with their opposites and by viewing political good and evil in

a positive as well as in a negative consideration. The Constitution contemplates people and territory; it provides for the augmentation of the people of the United States, but not for diminution; and a diminution not sanctioned is not protected. The integrity of territory is maintained, and may be enlarged, but not diminished; diminution and dissolution seem in this case to be convertible terms. Augmentation of the people is contemplated. Not only that which arises from internal population, but that also which arises by additions from foreign countries, under the power "to establish a uniform rule of naturalization." "New States may be admitted by the Congress into this Union." This declared power intends enlargement of territory, as well as augmentation of people.

The wise men who gave existence to the Constitution could not prescribe limits to the number of the people; but they might by it have prescribed limits to territory. That they did not do. The declaration that new States may be admitted by the Congress into this Union, manifests that their object was an enlargement of territory. Hence, then, may be inferred, that the Constitution provides for augmentation of the people and enlargement of territory, but not for diminution of either. Provision is made for the enjoyment of, and participation in, the rights of civil and religious liberty, but not for a relinquishment of them. To expatriate, to relinquish, to abandon, is not denied; it is left to the operation of free volition, on the ground that the principle of perpetual allegiance does not exist in a republican government, or government of the people.

The Constitution is a free-will offering to the happiness of mankind. "We, the people of the United States," are blessed with it; let us preserve it inviolate. The Constitution invites, and he who will and can, may participate in it, and in the good it communicates; but it leaves the human will free to act under the reason of the perfection of its principles, and says to no one, "Go away." The Constitution prescribes a form of government, strong, powerful, and surpassing in vigor; but, notwithstanding this, civil and political happiness and peace are its objects. It will not be disturbed by a voluntary abandonment of it by any one on whom the sublimity of its principles, the beauty of its perfections, and the happiness it communicates, have no influence. The Constitution contemplates a mighty empire; but that empire is founded on the free volition of the sovereign people. It grasps no one in an iron embrace, but invites to happiness by the persuasion of benevolence.

The Almighty Creator made the earth for man; and as he has divided it into various climates and regions, and as mankind are divided politically and civilly into different governments and institutions, and religiously into several denominations, so every man, in pursuit of happiness, has an inalienable right to determine the country of his residence, the government of his choice, and the religion of his hope and faith; that determi-

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nation will rest on the ruling principle of the soul, that exists itself in love of country, love of government, and love of religion.

Mr. ROBERTSON replied at large to Mr. LOWNDES and others.

Mr. EDWARDS stated the reasons which would induce him to vote on this occasion against the indefinite postponement.

The question was then taken on postponing the bill indefinitely, and negatived—yeas 73, nays 88, as follows :

YEAS—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Baldwin, Bayley, Beecher, Boss, Claggett, Colston, Cruger, Cushman, Darlington, Drake, Earle, Ellicott, Folger, Hall of Delaware, Hasbrouck, Herbert, Hitchcock, Holmes of Connecticut, Hopkinson, Hubbard, Huntington, Kirtland, Lawyer, Livermore, Lowndes, McLane, W. P. Maclay, Mason of Massachusetts, Mason of Rhode Island, Merrill, Middleton, Mills, Morton, Moseley, Mumford, Jeremiah Nelson, H. Nelson, Ogden, Ogle, Orr, Palmer, Parrott, Pawling, Pindall, Pitkin, Porter, Reed, Rice, Richards, Ruggles, Schuyler, Scudder, Sergeant, Settle, Sherwood, Slocumb, Alexander Smyth, Stuart of Maryland, Tallmadge, Taylor, Terry, Upham, Walker of North Carolina, Westerlo, Whitman, Williams of Connecticut, Williams of New York, Williams of North Carolina, Wilkin, and Wilson of Massachusetts.

NAYS—Messrs. Abbott, Anderson of Pennsylvania, Anderson of Kentucky, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Bellinger, Bennett, Blount, Boden, Bryan, Burwell, Butler, Campbell, Claiborne, Cobb, Comstock, Cook, Crafts, Crawford, Desha, Edwards, Ervin of South Carolina, Floyd, Forney, Forsyth, Fuller, Gage, Garnett, Hale, Hall of North Carolina, Harrison, Hendricks, Herkimer, Herrick, Hogg, Holmes of Massachusetts, Hunter, Irving of New York, Johnson of Virginia, Johnson of Kentucky, Jones, Kinsey, Little, W. Maclay, McCoy, Marr, Moore, Murray, T. M. Nelson, Nesbitt, New, Newton, Owen, Patterson, Pleasants, Quarles, Rhea, Rich, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Sampson, Savage, Seybert, Shaw, Silsbee, Simkins, Ballard Smith, J. S. Smith, Southard, Speed, Spencer, Stewart of North Carolina, Strother, Tarr, Terrill, Tompkins, Townsend, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of Kentucky, Wendover, Whiteside, and Wilson of Pennsylvania.

The question recurring on Mr. JOHNSON'S substitute—

Mr. BARBOUR moved to strike therefrom the words "*enacted, and.*"

After some conversation on this motion, it was negatived—ayes 67, noes 76.

Mr. PITKIN made a few remarks against the substitute, and was replied to by Mr. JOHNSON, of Virginia; after which the question was taken on Mr. JOHNSON'S proposition, and decided in the negative: For the amendment 64, against it 77.

Mr. ROBERTSON, of Louisiana, then offered the following substitute to the remaining section of the bill:

"That in all prosecutions which may hereafter be instituted against any person for having engaged in military or naval service for or against any foreign Power, when without the jurisdiction of the United States, who, before the commission of the fact with

which he may stand charged, shall have been a citizen of the United States, but shall have exercised his right of expatriation by becoming a citizen or subject of any foreign State or community by adoption, it shall be lawful for such person to give such fact of expatriation in evidence upon the general issue; and if upon the trial of such person so charged as aforesaid, he shall prove such fact to the satisfaction of the jury, he shall be discharged from such prosecution."

To give time for a little reflection on this new proposition, Mr. TRIMBLE moved that the amendment be laid on the table and be printed; which was agreed to.

### TUESDAY, March 3.

Mr. ROBERTSON, of Louisiana, from the Committee on Public Lands, to whom was referred the petition of Charles Smith, a wealthy citizen, who wishes to build a church and school-house at his own expense, if Congress shall grant him the pre-emption right to a certain tract of prairie land whereon to build the same, made a report thereon, expressive of their high respect for the motives and object of the petitioner, but adverse to his prayer on general principles. The report was concurred in.

Mr. SOUTHARD, from the committee on the subject, made a report unfavorable to the prayer of certain persons, who pray to be incorporated for the purpose of trade with certain Indian tribes; which was read and concurred in.

Mr. HERBERT, from the Committee for the District of Columbia, reported a bill to incorporate a company to build a bridge over the Eastern Branch of Potomac, from the southern termination of Eleventh street, east, in the city of Washington; which was read twice, and committed to a Committee of the Whole.

The Committee of Ways and Means were discharged from the further consideration of the resolution of the General Assembly of Maryland, respecting the monument ordered to be erected to the memory of Major General the Baron de Kalb.

Mr. REED submitted the following preamble and resolution:

Whereas a resolution was passed by the Congress of the United States, on the 14th day of October, 1780, in the following words, to wit:

*Resolved*, That a monument be erected to the memory of the late Major General the Baron de Kalb, in the city of Annapolis, in the State of Maryland, with the following inscription:

"Sacred to the Memory of THE BARON DE KALB, Knight of the Royal Order of Military Merit, Brigadier of the Armies of France, and Major General in the service of the United States of America. Having served with honor and reputation for three years, he gave a last and glorious proof of his attachment to the liberties of mankind and the cause of America, in the action near Camden, in the State of South Carolina, on the 16th of August, 1780, when leading on the troops of the Maryland and Delaware lines against superior numbers, and animating by his example to deeds of valor, he was pierced with many wounds, and on the 19th following expired, in the forty-eighth year

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of his age. The Congress of the United States of America, in gratitude to his zeal, services, and merit, have erected this monument."

*Resolved, therefore,* That the foregoing resolution be referred to a select committee, with instruction to report a bill to carry the same into effect.

The question was taken, "Will the House now consider the said resolution?" and determined in the negative.

## DUTY ON SALT.

Mr. LOWNDES, from the Committee of Ways and Means, who were instructed to inquire into the expediency of repealing the duty on salt, made a report against repealing the duty; which was read, and referred to a Committee of the Whole. The report is as follows:

That the letter from the Secretary of the Treasury, with the statement which accompanies it, which they report to the House, explains the principal objections to the repeal of the duty in question, which have induced the committee to concur in the opinion of the Secretary.

TREASURY DEPARTMENT, Jan. 5, 1818.

SIR: In reply to your letter of the 12th ultimo, enclosing a resolution of the House of Representatives, instructing the Committee of Ways and Means "to inquire into the expediency of repealing the law laying a duty on imported salt, granting a bounty on pickled fish exported, and allowances to certain vessels employed in the fisheries;" requesting any information or opinion which I may think proper to communicate, and particularly an estimate of the revenue which has accrued from the salt duty in the years 1816 and 1817, I have the honor to submit a statement of the revenue accruing from that duty during the years 1815, 1816, and the first two quarters of 1817, and of the amount paid upon the exportation of pickled fish, as well as of the allowances to vessels employed in the fisheries.

Deducting the bounty and allowances from the gross amount of duty, and apportioning the remainder between the two years and a half, the period within which it has accrued, the annual average revenue arising from that duty is estimated at \$810,016. But as the war prevented importations to any considerable extent during the first quarter of the year 1815, if that quarter should be omitted in the estimate, the annual revenue arising from the duty on salt during the period embraced by the statement would exceed \$900,000. By comparing the revenue of the first two quarters of the year 1817 with that which accrued in the year 1816, it appears that there has been a considerable diminution during the latter period; it may, therefore, be unsafe to estimate it above \$800,000 a year.

The revenue in the annual report of the Treasury has been estimated for the year 1818 at \$24,525,000, including the internal duties, which have been since repealed. The revenue for that and for the next two years may be estimated at \$22,025,000. The expenditures for the same year have been estimated at \$21,946,351 74, which being deducted from the estimated revenue, there would remain a surplus of revenue, beyond the expenditure at present authorized by law, of \$78,648 26.

It therefore appears that, if the salt tax shall be repealed, there will be a deficit in the revenue of more than \$700,000 annually, until the proceeds of the

lands in the State of Mississippi and in the Alabama Territory shall be applicable to the current expenses of the Government. During this interval the deficit will have to be supplied by the balance estimated to be in the Treasury on the 1st day of January of the present year.

As it is uncertain what appropriations may be made during the present session of Congress, beyond those authorized by existing laws, and upon which the estimates of expenditure for the year 1818 are founded, it is impossible to determine whether the balance in the Treasury will be equal to the supply of the deficiency which the repeal of the duty upon salt will create. It may be proper also to observe, that, after paying the interest of the public debt, and reimbursing the old six per cent. and deferred stock, according to the principles of the funding system, the appropriation of ten millions of dollars, constituting the sinking fund, will be unequal to the discharge of the Louisiana debt during the years 1818 and 1819. The deficiency was intended to be supplied from the balance remaining in the Treasury, under the provisions of the act of the last session of Congress, providing for the redemption of the public debt. A reduction of the balance in the Treasury, so as to prevent its application to this object, ought to be carefully guarded against.

I have the honor to be, your most obedient and very humble servant,

WM. H. CRAWFORD.

Hon. WILLIAM LOWNDES,

*Chairman of the Com. of Ways and Means.*

*Statement showing the amount of duty which accrued on salt imported during the years 1815 and 1816, and from the 1st of January to the 30th June, 1817, together with the amount paid for bounty on pickled fish exported, and for allowances to vessels employed in the fisheries during the same period.*

	Duty on Salt:
From 1st Jan. to 31st December, 1815,	\$855,448 40
From 1st Jan. to 31st December, 1816,	1,100,745 70
From 1st January to 30th June, 1817,	232,183 74
	Bounty.
From 1st Jan. to 31st December, 1815	
From 1st Jan. to 31st December, 1816,	\$586 80
From 1st January to 30th June, 1817,	1,836 20
	Allowances.
From 1st Jan. to 31st December, 1815,	\$1,811 74
From 1st Jan. to 31st December, 1816,	84,736 26
From 1st January to 30th June, 1817,	76,786 43

TREASURY DEPARTMENT,

*Register's Office, Decem. 18, 1817.*JOSEPH NOURSE, *Register.*

## ADJOURNMENT OF CONGRESS.

The House then, on motion of Mr. SERGEANT, proceeded to the consideration of the proposition, submitted by him a few days ago, contemplating the adjournment of Congress on the — day of March instant.

MESSRS. SERGEANT, BASSETT, GARNETT, and JOHNSON, of Kentucky, supported this proposition generally, on the ground that the session had been already so far prolonged, as that the business which had been transacted bore no proportion to the length of the session; that, unless some certain limit were fixed to the session, the business of the House would progress with no greater despatch, and that at last, let it be never



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so far extended, much would be left undone that ought to be done; that sessions of such length are not necessary in time of peace, in the transaction of ordinary business; and that it was natural for men to relax in any pursuit, of business or of duty, to which a termination is not fixed, and proportionably to accelerate their progress when approaching the certain termination of their labors.

To which course of reasoning Messrs. LOWNDES, SIMKINS, HARRISON, PITKIN, TUCKER, and TAYLOR replied in substance, that the best way to avoid the public censure, which gentlemen had deprecated, was not to adjourn before the business was done, but to hasten its progress to completion, and thus remedy the evil that was complained of; that it was utterly impracticable to adjourn within the time proposed, without wholly overlooking much of the business now on the table, some of which had been already for years before the House, and which the present was a peculiarly proper time for acting on; that, as to the comparative length of the present and former sessions of Congress, it was a fact that there had been before one of the committees of the House at the present session, more business than there was ten years ago before all the committees of the House together; that, on general principles, it is inexpedient to tie up the two Houses to adjourn at a given day, since, of necessity, the business transacted within the last days of sitting must be inconsiderately done, and frequently attended by serious mistakes, &c.

Among other motions made on this subject was one to postpone the further consideration of the resolution to the first Monday in April next, which was negatived.

A motion was made by Mr. HERRICK to amend the resolve, so as to fix on the 20th of April as the day of adjournment, and this motion was negatived.

Mr. HOLMES then moved to amend the resolve, so as to fix on the 10th day of April for adjournment.

On this motion the yeas and nays were ordered.

Mr. TAYLOR then renewed a motion, which had been twice before negatived, to lay the resolve on the table, with the view of allowing him time to offer a motion for appointing a committee to inquire into the subject, which he and Mr. LOWNDES contended, being the usual mode, was the proper one in this case.

The motion to lay the bill on the table was at length agreed to by a vote of 81 to 78; and Mr. TAYLOR, of New York, offered for consideration the following resolution:

*Resolved*, That a Joint Committee of both Houses be appointed to consider and report when the present session of Congress may be terminated.

The resolution was read once, twice, thrice, passed, and sent to the Senate for concurrence.

#### GEORGIA CLAIMS.

The House then resolved itself into a Committee of the Whole, on the bill authorizing the pay-

ment of certain claims of Georgia militia, for services rendered during the years 1793-94.

Mr. CORB spoke at some length, recalling the attention of the House to the observations he had made at an early period of the session in support of this claim, and adducing some further arguments drawn from facts not in his possession when he first expressed his views of the subject.

Mr. TERRILL, of Georgia, addressed the Chair as follows:

Mr. Chairman, I will detain the Committee a short time, by making some observations on the bill before you, making compensation for services rendered long since by the Georgia militia. I was one of a select committee directed to inquire into the nature of the claims for which that bill is intended to make provision, which inquiry has resulted in the conviction of their justice. It becomes, therefore, my duty, under this impression, and especially so, as one of the immediate representatives of those who hold these claims, to show the Committee the grounds upon which this opinion is founded.

I am aware, sir, that the strength of these claims is diminished, by the length of time which has elapsed since the performance of the services; I am also aware that they have to contend with prejudices, very naturally rising up in opposition to them, from the fact of their having been acted on more than once by Congress. These are objections, however, which are not substantial; and, if I may judge of the future by past acts of justice and liberality, they will have but little weight with this Committee.

From an examination of the documents which have been collected and offered to the Committee, I think it will appear most clearly that the services of the Georgia militia, as stated by the present applicants, were necessary for the safety of the State; were rendered under the direction of the General Government; and are entitled to compensation by the General Government. I will attempt to simplify the investigation of these claims, by considering them in two points of view.

Was the Governor of Georgia authorized to call out the militia of the State for its defence, with discretionary power? Was this power used beyond the necessity?

And I apprehend, if it shall appear that authority was delegated to the Governor of Georgia, for the purposes of defence, and that the necessity existed for the exercise of this power, there will arise no objection to the passage of the bill on your table. Before I attempt to show that the Executive of Georgia was empowered by the General Government to call out the militia, I will advert transiently to the situation of the United States in regard to the Indian tribes, near the time when the services were performed, for which compensation is now claimed; and to the laws passed by Congress to authorize the President, in case of danger, to call out the militia of the States.

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war, to the period alluded to, and, indeed, for some time after, all the nations of Indians on the frontiers of the United States were restless, disposed upon the least excitement to hostility, occasionally making inroads upon the frontier, and committing murders; and with some of them there existed a state of actual war. To such an extent was this disposition manifested, and so serious was this war, that in one of the letters of the Secretary to the Governor of Georgia, he assigns it as the reason for not affording protection to the State by the regular troops. And it is to be recollected, that some of these wars were waged with great perseverance and fierceness, by an enemy no way contemptible, and against whom success, though eventually certain, was not determined by a single battle.

All the acts of Congress passed from 1789 to 1795 to authorize the Executive to call out the militia, for national purposes, give especial authority to repel invasion from Indian tribes; and the degree and extent of the danger made it constantly necessary that the militia should be used. The number of the acts, and the different times at which they were passed, having expressly in view the protection of the frontier, show conclusively its exposed situation. I believe it will not be said that any part of the frontier of the United States was exempt from this exposure. From Canada to the southern boundary of Georgia, a line only of territorial demarkation separated the inhabitants from Indian lands and Indian neighbors.

I will bring to the recollection of the Committee some of those acts having immediate relevance, and from which, through the medium of the Executive of the United States, the Governor of Georgia derived his authority. In September, 1789, April, 1790, March, 1791, March and May, 1792, acts were passed to enable the President to afford protection and prevent invasion, from the Indians, by the militia, or to call them out in case there was imminent danger of invasion.

I will now inquire, from the documents, if the Executive of Georgia was authorized to call out the militia whom we now ask you to pay? In the year 1792 the Governor of Georgia had made frequent communications to the Executive of the United States, on the subject of Indian hostility, and towards the close of it the appearances of danger had so multiplied, as to make reparation for defence absolutely necessary. In answer to a communication to the War Department, for that purpose, a letter, dated October 27, 1792, to the Governor of Georgia, contains the following instruction: "If the information you may receive shall substantiate clearly any hostile designs of the Creeks against the frontiers of Georgia, you will be pleased to take the most effectual measures for the defence thereof, as may be in your power, and which the occasion may require."

In consequence of this unlimited power, and upon facts sufficiently strong, the Governor informed the agent of the United States (Mr. Hathersham), that "the very critical situation to

which the frontier settlers are reduced, from the late murders and depredations committed by the Indians, it is rendered indispensably necessary that means be taken to guard against their inroads. He is, therefore, requested to furnish rations for the militia whom he had then called out for that purpose."

I ask, sir, if the recited paragraph does not give powers altogether ample? And if the facts then in the knowledge of the Governor were not sufficient to justify the measures taken to call out the militia? What kind of proofs would you have required of hostile designs? To what extent would you have allowed this disposition of the savages, thus manifested, to have been carried before you would have thought it necessary to use your power?

The instructions from the War Department, next after those of the above letter, are in the communication of the 30th May, 1793, in which the forces intended for the defence of Georgia are designated, and are of a different description, and less in number than those employed by the Executive; for the reason that "it did not yet appear that the whole of the Creek nation were disposed to hostility, or to engage in war." And how much reliance is to be placed on the appearances given by Indians even of friendship? But allow that the whole of the nation were not actually engaged in war, or disposed to do so, their numbers were such, that one-half, or one fourth, would have made it necessary to have employed more than one hundred foot and one hundred horse, the limit of the provision in this letter. It is acknowledged that this letter limits the power of the Governor, in the forces to be employed, to the number above mentioned; unless it may be necessary for him "to resort to the Constitutional provision to which he is referred in case the State of Georgia should be seriously invaded by large bodies of Indians;" an occurrence which it seems to me would have rendered the reference unnecessary, and the power therefrom derivable, useless. It is useless, indeed, in Indian warfare, to wait for an invasion before you call out your forces for protection. But, sir, I apprehend the State governments have the power to use their forces, and make every preparation for defence, without waiting for an invasion.

These instructions, however, could not have reached the Governor, or have been acted on, before others were given. On the 10th of June, in consequence of information received at the War Department, the Secretary, by order of the President, constitutes the Governor of Georgia the sole judge of the danger, its probable duration, and recognises the forces already called out. He says: "The State of Georgia being invaded, or in imminent danger thereof, the measures taken by your Excellency may be considered as indispensable. You are the judge of the degree of danger and of its duration, and will undoubtedly proportion the defence to exigencies. The President, however, expresses his confidence that as soon as the danger, which has induced you to

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'call out so large a body of troops, shall have subsided, you will reduce the troops to the existing state of things; indeed to the number mentioned in my letter of the 30th ultimo, duplicates of which have been forwarded; provided the safety of the frontiers will admit the measure.' This letter of instructions surely needs no comment. But, sir, on the 19th July, the Executive of Georgia received a despatch from the War Department, referring him to the letter of 30th May, for instruction as to the number and description of forces to be employed, and observes: "It is to be hoped, from no information having been received of any late depredations of the Creeks, that they may be brought to a sense of their crimes, and be prevailed upon to give up at least some of the authors thereof." It will be perceived by the Committee, that this letter of instructions is founded upon the supposition that the danger had diminished, because no information had been received of any late depredations of the Creeks, and could have been intended to give direction to the course of the Executive only upon that fact. The reason why no depredations had been recently committed, may be easily explained, without supposing any change in the disposition of the Creeks. The very forces which were then in service operated to prevent them.

But, upon comparing this letter with the instructions of the 22d February, it will appear that it was not intended to affect the discretionary power of the Governor of Georgia, and that it had been so considered; for the Secretary of War, of the above date, referring to this body of militia, remarks, "that if this number, or indeed any excess of the force hereafter described, should continue to be kept up in ordinary cases, the President of the United States desires it to be explicitly understood by your Excellency that the General Government will not be pledged for the expense thereof."

Suppose, sir, you give any other construction to these different letters of the 27th October, 30th May, 10th June, and 19th July, nothing like effective measures could have been adopted, no regular system could have been put in operation for militia service; and here I will remark, that when militia have been called out by the proper authority, have entered your service under this impression, and have done all that you required of them, they should be paid without hesitation and without construing too critically the instructions which they have obeyed; otherwise you may weaken their confidence in, and attachment to, the Government.

The power delegated to the Executive of Georgia was not used unnecessarily; a few facts only I think will be sufficient to establish this proposition. In March, 1793, application was made to the President by the Delegates from Georgia for the establishment of magazines of arms, ammunition, and for calling into service the militia of the neighboring States. About this period the Governor of South Carolina had been written to on this very subject by the Executive of the

United States, directing him to afford assistance for the frontier protection of Georgia, expressly declaring that the General Government would be responsible for the expenses incurred. On the 29th April Governor Blount found it necessary, from the danger which threatened the Territory (now Tennessee) from the Upper Creeks and "mass" of Lower Cherokees to visit the seat of government, to concert measures for its defence. Was not Georgia equally exposed? At this time a hostile disposition pervaded the whole of the Indian tribes to the southwest, and the United States were engaged in actual war with the Cherokees. In a letter from Governor Blount, he states, that, from information from the Indian country, one chief had one thousand six hundred warriors; and it is now generally known, that most, if not all the tribes near the Floridas, were supplied with arms and ammunition by the Spanish authority. The number of Indians on the frontiers of Georgia and Tennessee, it will be recollected, were greatly beyond what they are at present. Was it an improper use of the forces of the State to employ ten or twelve hundred to guard the whole frontier against an enemy of from six to ten thousand, a frontier of four hundred miles in extent? Would one hundred foot and one hundred horse have been sufficient to prevent savage incursion on a frontier extending in a semi-circular line, from the head-waters of the Savannah river to the mouth of the St. Mary's? Let me ask what would have been the consequence, if the Executive of Georgia had neglected to use the amplest means for the defence of the State, I will say frontier, for it was all frontier!—what the consequence if the Indians had made such an incursion as was contemplated? Would it have been said that he had not the power to use the physical force of the State? Would the General Government have been charged with neglect or indifference? What would have been the feeling in the country produced by the massacre of fifty or an hundred families? Was there in the then posture of affairs no such prospect? When almost all the inhabitants were occasionally fortified? What are the forces which you now have in that very country? Four thousand or upwards; and, not long since, incursions have been made and massacres committed. Was it indiscreet in the Executive of Georgia to keep up a force of twelve hundred against ten times the number of your present enemy? There is sufficient reason to believe that the then Executive of the United States expected that these troops should be paid by the General Government. Muster and pay rolls were directed to be sent on to the proper department. The letter of the 22d February, part of which has been read, recognises these forces; and a letter of the same date, to the agent of the United States, (Mr. Habersham,) directs that, in future, no supplies should be furnished to a number greater than one hundred foot and one hundred horse. An additional, and perhaps the strongest, proof that the General Government felt bound to pay the forces theretofore called

out, is furnished by the fact, that some time after the termination of Indian hostility in that part of the country, the United States settled with her agent and paid him for the supplies furnished these very troops. How can you separate the claim for payment for services, when you acknowledge yourself bound to support the troops who performed them? And here, sir, let me remark, that if you refuse payment for the services performed by these militia, you make them a solitary exception. Militia called out by the General Government at the same time, in different States and Territories, have been all paid; and in no instance that I know of have any militia who performed services been refused payment. The militia of both the Carolinas, of the South-western Territory, called out under precisely the same circumstances, have been paid.

I have not attempted to calculate exactly the amount of these claims; but, to show that from April, 1792, to February, 1794, or as soon thereafter as the militia could be discharged, they are entitled to compensation for services so long since rendered. This is all they ask, and I will say that no militia were more meritorious, more patriotic, or performed more faithfully their duty.

After some amendments had been made to the details of the bill, a motion was made to strike out the first section of the bill—

Mr. TALLMADGE rose in support of the motion, the merits of which he examined with reference to the documents on which it had been sustained, as well as to the old age of the claim, and its repeated rejections in former days, and during the Administration of Washington, when the real nature of the claim was better understood, he said, than it possibly could be at the present day. He also took the ground against this claim, that it was intended and understood by some of the Commissioners at least, and so reported by a committee of the House, to have been merged in the amount of \$1,250,000, which the United States agreed to pay to Georgia for the territory ceded by that State to the United States.

Mr. FORSYTH replied to Mr. TALLMADGE, point by point. He denied that long denial of justice ought to constitute an obstacle to its final award, or that repeated refusals ought to be plead in bar to a just claim. He went into a full examination of the grounds of the claim, which he sustained with earnestness. In regard to Attorney General Lincoln's unsupported impressions respecting the liquidation of this claim by the convention between Georgia and the United States, which had been quoted by Mr. TALLMADGE, he refused them any weight whatever, particularly when there was direct testimony by two other of the Commissioners, positively denying the correctness of Mr. Lincoln's impressions. Mr. F. concluded his comprehensive views of this question by expressing his earnest hope, that justice would at length be done to these claimants.

The question was then taken on striking out the first section of the bill, and decided in the negative, 60 to 59.

The Committee then rose and reported the bill

to the House; but, before coming to any decision thereon, the House adjourned.

WEDNESDAY, March 4.

Mr. PLEASANTS, from the Committee on Naval Affairs, made a report on the petition of Captain Samuel C. Reed, on behalf of the officers and crew of the armed brig General Armstrong, which was read; when Mr. P. reported a bill, authorizing a sum of money to be distributed among the officers and crew of the said late private armed brig, the General Armstrong; which was read twice, and committed to a Committee of the Whole.

The SPEAKER laid before the House a letter from the Secretary of the Navy, transmitting a copy of the proceedings of the court martial, and of the memorial of the midshipmen and other officers, called for by the resolution of this House of the 26th ultimo; which was referred to the Committee on Naval Affairs.

#### EXPATRIATION BILL.

The question under consideration being on the adoption of the following substitute offered by Mr. ROBERTSON, of Louisiana, as an amendment to the remaining section of the bill:

"That in all prosecutions which may hereafter be instituted against any person for having engaged in military or naval service, for or against any foreign Power, when without the jurisdiction of the United States, who, before the commission of the fact with which he may stand charged, shall have been a citizen of the United States, but shall have exercised his right of expatriation, by becoming the citizen or subject of any foreign State or community, by adoption, it shall be lawful for such person to give such fact of expatriation in evidence, upon the general issue; and, if upon the trial of such person so charged, as aforesaid, he shall prove such fact to the satisfaction of the jury, he shall be discharged from such prosecution."

Mr. FORSYTH made an unsuccessful motion to amend the substitute so as to require that the citizen desiring to expatriate himself should cause to be recorded in the office of the clerk of a district court twelve months previous notice of his intention.

Mr. TERRY moved to strike out of the third line of the substitute, the words "for or," which motion was supported by the mover, and by Mr. COLSTON, and opposed by Messrs. EDWARDS, ROBERTSON of Louisiana, and LOWNDES, and negatived by a large majority.

Mr. LIVERMORE moved to strike out of the 12th line the words, "give such fact of expatriation," and insert, "give the fact that he has been naturalized in some foreign State;" which motion was supported by the mover in a few remarks, and agreed to.

On motion of Mr. LIVERMORE, the words, "or community," were stricken from the 10th line; and,

On motion of Mr. CRAWFORD, the words "by adoption," following in the same line, were also stricken out.

Mr. MERCER, after briefly explaining and sup-

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porting the proposition he rose to offer, moved to strike out after the word "have," in the 7th line, the words "been a citizen of the United States, but shall have exercised his right of expatriation by becoming," in the 9th line, and inserting the word "become," to accommodate the sense; which motion was agreed to.

Mr. LOWNDES, after remarking that the act of naturalization, to be valid, ought to be made within the jurisdiction of the Government of which the person becomes a subject, moved to insert, after the word "State," in the 10th line, the words "while within its jurisdiction;" which was agreed to without a division.

Mr. MERCER next moved to insert after "United States," in the 5th line, the words, "and not in hostility against the said States;" which was agreed to, 65 to 59.

The next amendment proposed was by Mr. TALLMADGE, to insert, after "have," in the 8th line, the words "bona fide and voluntarily;" which motion prevailed; when,

No other amendment being offered, the question was stated on adopting the amendment as amended; and which is as follows:

"That, in all prosecutions which may hereafter be instituted against any person for having engaged in military or naval service for or against any foreign Power, when without the jurisdiction of the United States, and not in hostility against the said States, who, before the commission of the fact with which he may stand charged, shall have bona fide and voluntarily become the citizen or subject of any foreign State, while within its jurisdiction, it shall be lawful for such person to give the fact of his having been naturalized by some foreign State, in evidence upon the general issue; and if, upon the trial of the person so charged, as aforesaid, he shall prove such fact to the satisfaction of the jury, he shall be discharged from such prosecution."

Mr. PITKIN submitted some arguments against the amendment, and was replied to by Mr. ROBERTSON, of Louisiana.

Mr. TRIMBLE then read an amendment, which, for reasons which he offered at large, he wished incorporated into the bill; the object of which, substantially, was to recognise the right of a citizen to enter into the service of any foreign Government with which his country may be at peace, without thereby forfeiting his right of citizenship at home, &c.

Mr. FORSYTH replied to some of the arguments used by Mr. TRIMBLE in support of the principle he had proposed to introduce into the bill.

Mr. TRIMBLE then, after observing that the discussion of this principle might be referred with more propriety, perhaps, to the consideration of the Neutrality bill reported by Mr. FORSYTH, when it should come up for consideration, and not wishing to press a proposition now, of the success of which he was not sanguine, withdrew his motion.

Mr. RHEA offered his reasons at some length against the substitute under consideration; after which the question was taken on Mr. ROBERTSON'S substitute for the second section, and car-

ried by yeas and nays—for the amendment 93, against it 61, as follows:

YEAS—Messrs. Abbott, Anderson of Pennsylvania, Anderson of Kentucky, Ball, Barbour of Virginia, Barber of Ohio, Bassett, Bateman, Bayley, Bellinger, Bloomfield, Blount, Boden, Burwell, Butler, Campbell, Claiborne, Cobb, Cook, Crafts, Crawford, Cruger, Desha, Earle, Edwards, Ervin of South Carolina, Floyd, Forney, Forsyth, Fuller, Gage, Garnett, Hale, Hall of North Carolina, Harrison, Hendricks, Herbert, Herrick, Heister, Hitchcock, Holmes of Massachusetts, Hunter, Johnson of Kentucky, Jones, Kinsey, Kirtland, Lawyer, Linn, Little, Lowndes, W. Maclay, W. P. Maclay, Marr, Mercer, Moore, Morton, Mumford, Murray, H. Nelson, T. M. Nelson, Nesbitt, New, Ogle, Owen, Parrott, Patterson, Pleasants, Quarles, Richards, Ringgold, Robertson of Kentucky, Sampson, Savage, Sawyer, Silsbee, Simkins, Alexander Smyth, J. S. Smith, Speed, Spencer, Stewart of North Carolina, Tarr, Terrill, Trimble, Tucker of Virginia, Tucker of South Carolina, Tyler, Upham, Walker of North Carolina, Walker of Kentucky, Whiteside, Williams of North Carolina, and Wilson of Pennsylvania.

NAYS—Messrs. Adams, Allen of Vermont, Austin, Baldwin, Beecher, Boss, Clagett, Colston, Comstock, Cushman, Darlington, Drake, Ellicott, Folger, Hall of Delaware, Hasbrouck, Hogg, Holmes of Connecticut, Hopkinson, Hubbard, Huntington, Livermore, McLane, McCoy, Mason of Massachusetts, Merrill, Middleton, Mills, Moseley, Jeremiah Nelson, Ogden, Orr, Palmer, Pawling, Pindall, Pitkin, Reed, Rhea, Rice, Rich, Robertson of Louisiana, Ruggles, Schuyler, Scudder, Sergeant, Seybert, Sherwood, Slocumb, Bal. Smith, Stuart of Maryland, Tallmadge, Taylor, Terry, Tompkins, Wendover, Westerlo, Whitman, Williams of Connecticut, Williams of New York, Wilkin, and Wilson of Massachusetts.

Mr. WILLIAMS, of North Carolina, after entering briefly into an explanation of his reasons, offered, as an additional section to the bill, a provision, in substance, that no person availing himself of the bill, and becoming expatriated, should ever after be permitted to be again naturalized a citizen of the United States.

Mr. RICH moved that the whole subject be indefinitely postponed, declaring that the bill had assumed a character which, however disposed to vote for the original bill, he thought would answer no good purpose, and to which he was therefore opposed.

Mr. TALLMADGE submitted, much at length, his reasons for disapproving the bill, and for supporting its indefinite postponement.

Mr. ROBERTSON replied to some of Mr. TALLMADGE'S arguments, and stated the reasons which placed him in opposition to the bill as it had been amended, his main objection being the principle included in the second amendment offered by Mr. MERCER, denying the right of a citizen to fight in defence of his adopted country—even against the country from which he might have expatriated himself.

Mr. JOHNSON, of Kentucky, spoke a short time in support and illustration of the opinions he had previously submitted in the debate.

Mr. LOWNDES after stating his belief that Mr. MERCER'S second amendment was adopted by

the House without being aware of its full effect, and declaring that, for one, he had given his assent to it without fully apprehending, from the part of the substitute in which it had been inserted, the extent of the principle it involved, moved (Messrs. WILLIAMS and RICH having withdrawn their motions to give an opportunity therefor) to reconsider the vote on that amendment.

On this motion Mr. MERCER entered into a general justification of the amendment in question; after which the motion to reconsider was agreed to; and the question then recurring on the second amendment offered by Mr. MERCER, thus reconsidered, it was decided in the negative.

Mr. LOWNDES then moved to insert after the word "State," in the 9th line, the words "and whilst the said foreign State shall not be in hostility against the said United States."

This motion was opposed by Mr. ROBERTSON, and negatived without a division.

Mr. WILLIAMS then renewed his motion to add the section which he had just before offered and withdrawn; which motion was also negatived without a division.

The question was then taken on ordering the bill to be engrossed for a third reading, and decided in the negative—ayes 64, noes 75.

So the bill was finally rejected.

#### GEORGIA MILITIA CLAIMS.

The House then took up the report of the Committee of the Whole, on the bill providing for the payment of certain claims from the State of Georgia, for military services rendered in 1793, and 1794.

The Committee had reported the bill, filled up with the sum of \$143,500; which amendment the House refused to concur in.

Mr. COBB then moved to fill the blank with \$140,000, and spoke at some length, and earnestly in favor of the bill and his motion; which, however, was negatived.

Mr. TAYLOR, thinking the House had clearly indicated its hostility to the bill, moved its indefinite postponement.

This motion brought on a very long and animated debate, in which Messrs. FORSYTH, COBB, BALDWIN, and MERCER, strenuously advocated the bill; and Messrs. LIVERMORE and TALLMADGE opposed it; the latter very earnestly, and at much length.

The question on postponing the bill indefinitely was ultimately, about half-past five o'clock, decided in the negative—yeas 54, nays 64, as follows:

YEAS—Messrs. Allen of Vermont, Bateman, Bayley, Boss, Butler, Clagett, Comstock, Crafts, Drake, Folger, Gage, Hall of Delaware, Hasbrouck, Hogg, Holmes of Connecticut, Hubbard, Hunter, Irving of New York, Kirtland, Lawyer, Linn, Little, Livermore, W. Maclay, W. P. Maclay, McCoy, Merrill, Morton, Mumford, Palmer, Pawling, Pitkin, Porter, Rice, Rich, Richards, Ringgold, Sampson, Savage, Scudder, Seybert, Slocumb, Ballard Smith, Spencer, Stewart of North Carolina, Tallmadge, Taylor, Tompkins, Up-

ham, Wendover, Westerlo, Williams of Connecticut, and Williams of New York.

NAYS—Messrs. Abbott, Adams, Anderson of Pennsylvania, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bassett, Bellinger, Bloomfield, Campbell, Claiborne, Cobb, Colston, Cook, Crawford, Darlington, Edwards, Ellicott, Floyd, Forney, Forsyth, Garnett, Hall of North Carolina, Harrison, Hendricks, Hubbard, Herrick, Hitchcock, Holmes of Massachusetts, Hopkinson, Huntington, Johnson of Kentucky, Kinsey, Lowndes, McLane, Mason of Massachusetts, Mercer, Middleton, Mills, Moseley, Murray, Jeremiah Nelson, H. Nelson, T. M. Nelson, Nesbitt, Orr, Owen, Parrott, Patterson, Pindall, Pleasants, Reed, Rhea, Robertson of Kentucky, Ruggles, Sergeant, Simkins, Speed, Terrill, Tucker of Virginia, Tucker of South Carolina, and Wilson of Mass.

#### THURSDAY, March 5.

Mr. LOWNDES, from the Committee of Ways and Means, reported a bill, supplementary to the several acts relative to direct taxes and internal duties; which was read twice, and committed to a Committee of the Whole.

Mr. HUGH NELSON, from the Committee on the Judiciary, to which was referred the bill from the Senate, entitled "An act to increase the salaries of the judges of the circuit court for the District of Columbia," reported the same without amendment, and the bill was committed to a Committee of the Whole.

Mr. NELSON, from the same committee, who were instructed, on the 22d December last, to inquire whether the funds of the district court of New York have been faithfully applied, made a report thereon; which was read, and ordered to lie on the table.

Mr. NELSON reported a bill respecting the district courts of the United States, within the State of New York; which was read the first time.

#### SURVIVING OFFICERS AND SOLDIERS, &c.

Mr. BLOOMFIELD, from the committee on that part of the President's Message which relates to the surviving officers and soldiers of the Revolutionary Army, to which was referred the amendments proposed by the Senate to the bill, entitled "An act to provide for certain surviving officers and soldiers of the Revolutionary Army," reported the same with an amendment; which was read, and concurred in by the House.

The first part of the first section of the said bill, as proposed to be amended by the Senate, is as follows:

That every commissioned officer, non-commissioned officer, musician, and private soldier, who served in the war of the Revolution until the end thereof, or for a term of nine months, or longer, at any period of the war, on the Continental Establishment, and every commissioned officer, non-commissioned officer, mariner, or marine, who served at the same time, and for a like term, in the naval service of the United States, who is yet a resident citizen of the United States, is, or hereafter, by reason of his reduced circumstances in life, shall be in need of assistance from his country for support, and shall have substantiated his claim to a



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pension in the manner hereinafter directed, shall receive a pension from the United States.

A motion was made by Mr. EDWARDS, in order to enlarge the provisions of the bill, and make them as comprehensive as he could, to strike out of the Senate's amendment the words "on the Continental Establishment." This amendment would have the effect to embrace all who served for nine months in the military service, and were in service at the end of the war, thus including the militia as well as the regulars.

This motion gave rise to considerable debate, in which Messrs. EDWARDS, SIMKINS, and STROTHER, urgently supported the motion, and Messrs. PALMER and BLOOMFIELD opposed it.

In favor of the motion, was adduced the important services of the militia during the Revolution, frequently of the highest importance, and always more meritorious than those of the regulars, because not under the impulse of professional inducements and obligations.

Against the motion the main argument was, the impolicy of the amendment, as tending to defeat the bill on its return to the Senate, whose disposition on the subject had been sufficiently indicated by the amendments it had already made to the bill. The merit of the services of the militia was not denied, but the difficulty of discriminating between those who served occasionally and those who served for a particular term of time, was mentioned, as constituting an obstacle to any provision on the subject.

The question on this motion was decided in the negative—yeas 60, nays 91, as follows:

YEAS—Messrs. Abbott, Austin, Ball, Barbour of Virginia, Blount, Boden, Bryan, Burwell, Claiborne, Cobb, Cook, Crawford, Desha, Edwards, Floyd, Forney, Garnett, Hall of North Carolina, Hogg, Hunter, Johnson of Virginia, Johnson of Kentucky, Jones, Little, Marr, Mason of Rhode Island, Mercer, Merrill, Mills, Mumford, H. Nelson, Nesbitt, New, Orr, Owen, Pindall, Pitkin, Pleasants, Porter, Quarles, Reed, Ringgold, Sampson, Settle, Simkins, Slocumb, Bal. Smith, Alexander Smyth, Speed, Stewart of North Carolina, Strong, Strother, Tarr, Taylor, Terrill, Trimble, Tucker of Virginia, Tucker of South Carolina, Walker of North Carolina, and Williams of Conn.

NAYS—Messrs. Adams, Allen of Massachusetts, Allen of Vermont, Anderson of Pennsylvania, Baldwin, Barber of Ohio, Bassett, Bateman, Bayley, Beecher, Bellinger, Bennett, Bloomfield, Boss, Butler, Campbell, Clagett, Colston, Crafts, Cruger, Cushman, Darlington, Drake, Earle, Ellicott, Folger, Forsyth, Fuller, Gage, Hale, Hall of Delaware, Hasbrouck, Hendricks, Herkimer, Herrick, Hitchcock, Holmes of Massachusetts, Holmes of Connecticut, Hopkinson, Hubbard, Huntington, Irving of New York, Kinsey, Kirtland, Lawyer, Linn, McLane, W. Maclay, W. P. Maclay, McCoy, Mason of Massachusetts, Middleton, Moore, Morton, Moseley, Murray, Jeremiah Nelson, Ogle, Palmer, Parrott, Paterson, Pawling, Rhea, Rice, Rich, Richards, Robertson of Kentucky, Ruggles, Savage, Sawyer, Scudder, Sergeant, Seybert, Shaw, Sherwood, Silsbee, J. S. Smith, Southard, Spencer, Stuart of Maryland, Tallmadge, Terry, Tompkins, Townsend, Tyler, Upham, Wallace, Wendover, Westerlo, Whiteside, Whitman, Wilkin, and Wilson of Pennsylvania.

Mr. BAYLEY moved to amend that part of the Senate's amendment, which provides that the relief contemplated should not be allowed to any of those officers and soldiers who are already on the pension list of the United States, or of any individual State, by striking thereout the words "or of any individual State." This motion was supported by Mr. BAYLEY, and opposed by Messrs. EDWARDS and BLOOMFIELD, as going to destroy the principle of the bill, which was to relieve only the indigent. This motion prevailed by a vote of 79 to 61.

Mr. McCoy further moved to amend, by striking out "nine months," the term of service required to have been performed to constitute a claim to the bounty of Congress, and inserting, in lieu thereof, "three years." This motion was decided in the negative.

After some other amendments of detail proposed by Messrs. J. S. SMITH, AUSTIN, and others, the question was taken on agreeing to the amendments of the Senate, as amended, and agreed to; and the bill was returned to the Senate for concurrence in the amendments to the amendments of that body.

#### GEORGIA MILITIA CLAIMS.

The House resumed the unfinished business of yesterday, being the bill for the payment for services rendered by certain Georgia militia in 1793, and 1794.

Mr. COBB moved an amendment to the bill, with a view to obviate the objection which had been thrown against the bill, and which he feared might defeat it, requiring that the sums claimed and proven to be due, to the satisfaction of the Secretary of War, should be paid "to the person or persons who performed such services, or his or their legal representatives;" thus preventing the payment of these claims to assignees, or persons who may have bought up the claims. The motion was agreed to.

Mr. COBB then moved to fill the blank in the bill with the sum of \$109,130 65, being the sum which, according to the report of Secretary Dearborn in 1803, was due for services performed up to the end of the year 1793; and also the same sum as was embraced in the bill which last year passed the Senate, and failed in this House only from the lateness of the session. Mr. C. then proceeded to reply to the remarks of Mr. TALLMADGE yesterday, and particularly to the argument against the claim which was founded on the policy of that day, as contradicting the calling out such a force as twelve hundred men for the frontier defence—an argument which he replied to with great force and feeling.

Mr. SPENCER then rose in opposition to the bill, on the ground that the services proposed by the bill to be compensated, were not rendered under the authority of the United States, as he contended from the documents; and, not being so authorized, ought on no pretence to be compensated by the United States; if, for no other reason, because it would establish a dangerous precedent. He also objected to the incompleteness of the

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documents which had been brought to the view of the House relative to this claim.

Mr. FORSYTH replied to Mr. SPENCER, controverting his positions, and vindicating the claim from the doubtful character which he had imputed to it, at some length.

Mr. SPENCER rejoined.

Mr. ADAMS, of Massachusetts, spoke at some length in support of the claim, on the ground of the evidence in favor of it, which he critically examined.

Mr. RICH delivered his views of the claim, which were rather doubtful than adverse; but, after lending an attentive ear to the discussion, he yet doubted; and, doubting, could not vote for the claim.

Mr. TUCKER, of Virginia, advocated the admission of this claim, on the ground of the duty of the General Government to afford protection to every of the United States that it does to any of them; and that, in pursuance of this principle, the claim ought to be paid, on the evidence by which it is sustained.

Mr. LIVERMORE assigned some further reasons in opposition to the claim, because of the defect of authority from the United States for the employment of this force.

Mr. FORSYTH quoted the case of the recent payment for the militia of Maryland, employed without express authority from the United States, because the urgency of the case did not allow time for it.

Mr. WILLIAMS, of North Carolina, stated the same fact in regard to the late services of the militia of North Carolina.

Mr. REED confirmed substantially the fact stated by Mr. FORSYTH, and stated the circumstances under which the militia had been called out, particularly on the Eastern Shore of Maryland.

Mr. CLAIBORNE stated the circumstances of the payment of militia employed in Tennessee during the late war, without authority from the General Government, against the Indians in two cases, who had been promptly paid by the Government of the United States.

The question was at length taken on filling the blank in the bill, as moved by Mr. COBB, and decided thus: for the motion 74; against it 74.

The Speaker (Mr. H. NELSON then acting as Speaker) voted in the affirmative, and the motion was agreed to.

The question was then taken, "Shall the bill be engrossed for a third reading?" and decided by yeas and nays—for the bill 70, against it 90, as follows:

YEAS—Messrs. Adams, Anderson of Pennsylvania, Anderson of Kentucky, Austin, Baldwin, Ball, Barbour of Virginia, Bassett, Bellinger, Bloomfield, Boden, Campbell, Claiborne, Cobb, Colston, Cook, Crawford, Earle, Edwards, Ellicott, Ervin of South Carolina, Forney, Forsyth, Garnett, Hall of North Carolina, Harrison, Hendricks, Herriek, Hitchcock, Holmes of Massachusetts, Huntington, Johnson of Va., Johnson of Kentucky, Kinsey, Lowndes, McLane, Mason of Massachusetts, Mercer, Middleton, Mills, Murray, Jeremiah Nelson, H. Nelson, T. M. Nelson, Nesbitt, New,

Orr, Owen, Parrott, Peter, Pindall, Pleasants, Quarles, Reed, Ringgold, Robertson of Kentucky, Robertson of Louisiana, Ruggles, Simkins, Alexander Smyth, Strother, Terrill, Tucker of Virginia, Tucker of South Carolina, Tyler, Walker of North Carolina, Walker of Kentucky, Whitman, Williams of North Carolina, and Wilkin.

NAYS—Messrs. Allen of Vermont, Barber of Ohio, Bateman, Bayley, Beecher, Bennett, Blount, Boss, Bryan, Burwell, Butler, Clagett, Comstock, Crafts, Cruger, Cushman, Darlington, Desha, Drake, Folger, Fuller, Gage, Hale, Hall of Del., Hasbrouck, Herkimer, Heister, Hogg, Holmes of Connecticut, Hopkinson, Hubbard, Hunter, Irving of N. York, Jones, Kirtland, Lawyer, Linn, Little, Livermore, W. Maclay, W. P. Maclay, McCoy, Marr, Mason of Rhode Island, Merrill, Moore, Morton, Mumford, Palmer, Patterson, Pawling, Pitkin, Porter, Rhea, Rice, Rich, Richards, Sampson, Savage, Sawyer, Schuyler, Scudder, Sergeant, Settle, Seybert, Shaw, Sherwood, Silsbee, Slacumb, B. Smith, J. S. Smith, Southard, Speed, Spencer, Stewart of North Carolina, Tallmadge, Tarr, Taylor, Terry, Tompkins, Townsend, Trimble, Upham, Wallace, Wendover, Westerlo, Williams of Connecticut, Williams of New York, and Wilson of Pennsylvania.

And so the bill was rejected.

FRIDAY, March 6.

Mr. BUTLER presented a petition of John Stark, a Major General in the Revolutionary Army, representing his necessitous circumstances, and praying that the bounty of the National Government may be extended to him in the decline of his days, in consideration of his faithful services in the defence of his country: which was referred to a select committee; and Messrs. BUTLER, RICH, ANDERSON, of Kentucky, MERCER, LIVERMORE, HOPKINSON, and MILLS, were appointed the committee.

The SPEAKER presented a petition of the General Assembly of the State of Ohio, praying that a road may be laid out and made, at the expense of the United States, from the settlements in the said State, to those in the Territory of Michigan, previous to the sale of the land through which said road may be made.—Referred to the Committee of the Whole on so much of the President's Message as relates to roads, canals, and seminaries of learning.

Mr. HUGH NELSON, from the Committee on the Judiciary, reported a bill to alter the time of holding the circuit court in the southern district of New York, and for other purposes; which was read twice, and ordered to be engrossed and read a third time to-morrow.

Mr. NELSON also reported a bill altering the time for holding a session of the district court in the District of Maine; which was read twice, and ordered to be engrossed and read a third time to-morrow.

On motion of Mr. TUCKER of Virginia, the Committee on Military Affairs were instructed to inquire into the expediency of authorizing the proper accounting officers of the War Department to credit and settle the accounts of Harold Smyth, late a captain by brevet in the Army of

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the United States, and quartermaster at Fort McHenry, in such manner, and upon such terms, as shall be equitable and just.

On motion of Mr. HARRISON, the Committee on the Post Office and Post Roads were instructed to inquire into the expediency of establishing in some convenient situation in one of the Western States, a branch of the General Post Office, for the purpose of making contracts for the conveyance of the mail, and to correct abuses in that Department.

On motion of Mr. BALDWIN, the Committee on the Public Lands were instructed to inquire into the expediency of providing by law for allowing to any person or persons, who will purchase any portion of the public lands, not less than one entire township, at two dollars an acre, bearing interest from the date of the purchase, an extended credit, beyond the time allowed to purchasers under the existing laws.

Mr. CLAIBORNE submitted the following resolution; which was read, and ordered to lie on the table:

*Resolved*, That the President of the United States be requested to lay before this House a statement of the expenses incurred under the 4th, 6th, and 7th articles of the Treaty of Ghent, specifying the items of expenditure in relation to each.

A motion was made by Mr. REED that the House do now proceed to the consideration of the resolution submitted by him on the 4th instant, in relation to the erection of the monument to be erected to the memory of the late Major General the Baron de Kalb.

And the question being taken thereon, it was again determined in the negative.

## SUBSCRIPTION TO CANAL STOCK.

Mr. HENDRICKS rose to offer the resolution that follows, and said that perhaps he owed an apology to the House for bringing up this subject at so late a day; that he had intended at an earlier period of the session to have submitted the proposition to the House, but until he had procured the statute of the Legislature of Indiana incorporating that company, he thought it improper to trouble the House with it; that that statute had recently come to hand; that it incorporated the company named in the resolution with a capital of one million of dollars, for the purpose of making a canal around the falls of the Ohio. The importance of this undertaking, said Mr. H., is so intimately connected with the commerce and the general prosperity of the whole Western country, it is so obvious, and so generally known, that many remarks on the occasion would seem altogether unnecessary. The interests of Kentucky, Virginia, Pennsylvania, Ohio, and Indiana, above those obstructions, he said, were identified with the success of the work, and the interests of the low countries and the further west would also be greatly promoted by removing those obstructions. These falls, he said, presented the only obstacle known to the navigation of the Ohio; the work was deemed very practicable, and one which might speedily be accomplished. He would pre-

sent a clearer and a more general detail to the Committee when they should be authorized to take the subject into consideration. This subject, he said, was important also in a more national point of view. The ordnance and military stores for the extensive countries of the West must pass down the Ohio; from the falls of the Ohio to the southern head of Lake Michigan was the nearest and the best route for the military stores and supplies destined for Chicago, Michilimackinac, Fort Gratiot, at the outlet of Lake Huron, and other fortifications westwardly to the Mississippi; that a military road between those places presented itself as a measure of the utmost importance, and was a measure which at a future day he should bring before the House. Mr. H. then offered the following resolution, which was agreed to:

*Resolved*, That the Committee on Roads and Canals be instructed to inquire into the expediency of authorizing the Secretary of the Treasury to subscribe, in behalf of the United States, for any number of shares not exceeding six thousand, in the Jeffersonville Ohio Canal Company, in the State of Indiana.

## INTERNAL IMPROVEMENT.

The House having gone into a Committee of the Whole on the report of the committee appointed on so much of the President's Message as relates to internal improvement, the following resolution, recommended by the select committee to the adoption of the House, was read:

*Resolved*, That in order to promote and give security to the internal commerce among the several States; to facilitate the safe and expeditious transportation of the mails, by the improvement of post roads, with the assent of the respective States; to render more easy and less expensive the means and provisions necessary for the common defence, by the construction of military roads, with the like assent of the respective States; and for such other internal improvements as may be within the Constitutional powers of the General Government, it is expedient that the sum to be paid to the United States by the 20th section of the act to incorporate the subscribers to the Bank of the United States, and the dividend which shall arise from their shares in its capital stock, be constituted as a fund for internal improvement.

Mr. SAWYER rose to move that the Committee rise. He doubted whether there was a Constitutional majority of Congress in favor of the resolution; and as the President's objections to it were already known, without such a majority it would be useless to discuss the question. It was known also that there was now before the Senate a proposition to amend the Constitution, so as to give to Congress this power, which was an evidence that that branch thought such a measure first necessary to enable Congress to exercise the power. To prevent a tedious and useless debate, and to save time, Mr. S. therefore moved that the Committee rise and report progress, that the House might postpone the subject indefinitely.

Mr. TUCKER, of Virginia, hoped the Committee would not rise, and, in reply to Mr. SAWYER, he referred to the rules of the House to show that it was improper in the discussion of a motion here,

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to allude to the proceedings of the other branch. He declared that no duty could be more disagreeable to him than to undertake the task which devolved on him, as chairman of the committee which reported the resolution, of advocating the proposition; but such support as he could give to it he was ready to afford, and he hoped the Committee would proceed to its consideration. There was no ground to say that there was not a Constitutional majority for the measure; but this argument was the very reason why he would go on. He would not be bound by the deliberations of one branch of the Government or the declarations of another. If gentlemen were really anxious to save time, let the advocates of the proposition be heard, and then let the House decide whether they will adopt the measure. Another reason for proceeding was the number of petitions before the House on this subject. Shall they be disregarded, said Mr. T., because the President has said he cannot sanction this measure, and we thus say to the people, we fear to oppose the President's veto? A majority of the last Congress had decided that it possessed this power, and Mr. T. trusted that the proposition would be discussed now, and its strength tested by the present.

Mr. CLAY (Speaker) hoped the Committee would at once engage in this debate, and, instead of agreeing to the course moved by Mr. SAWYER, he wished that gentleman would withdraw his motion, and that the gentleman who reported the resolution (Mr. TUCKER) would be permitted to explain the views and arguments of the Committee in recommending the resolution; and he hoped that, instead of taking shelter behind the Executive declaration, the gentleman from North Carolina (Mr. SAWYER) would get up and make a Constitutional speech on the subject. Mr. C. trusted that the House would not avoid the discussion, but meet the subject as men should meet it, and decide on it fairly.

Mr. CLAGETT was in favor of the Committee's rising, and of preventing a waste of the time of the session. He was opposed to spending a long time on this subject, without the probability of a Constitutional majority for it, after the Executive had officially avowed that he could not sanction it without an amendment to the Constitution, &c.

Mr. MERCER was of opinion that the motion was abortive, its object was to save time, because, if the Committee rose, and a motion was made in the House to postpone its further consideration, its merits would come up and be debated as fully as they could now in Committee. The objection urged against the discussion of the measure, Mr. M. said, he should have understood, had it been heard in the times of Domitian or Nero, but he could not see its propriety, or feel its force at this day and in this House. Without feeling in his heart a sentiment at war with the dignity of the President, or with a respect for his opinions, yet the Executive avowal was no reason for dispensing with a full consideration and discussion of the proposition, and he hoped it would proceed.

Mr. SAWYER, in reply to Mr. CLAY, said the honorable Speaker had called on him for a Constitutional speech on this subject, but Mr. S. did not think it necessary to undertake to prove, by argument, that the proposition was unconstitutional. To him it was a matter of faith and feeling, and, in matters of faith, we may lay reason aside. Mr. S. said he had taken an oath to support the Constitution, and, in his conscience, he could not reconcile a vote in favor of this resolution, with the oath he had taken. It was sufficient for him that there was no express provision in the Constitution granting this power. Does this House, said Mr. S., wish to hear long speeches? Have we not already had so many, that wearied patience had cried out, enough, enough! Every gentleman's mind had been long made up, Mr. S. said, on this subject, and where was the use of wasting the time of the House, when it was certain that no member's mind would be changed if the subject were to be discussed for weeks. He should not withdraw his motion.

The question was taken on Mr. S.'s motion, and negatively by a large majority.

Mr. TUCKER, of Virginia, said, that in introducing this subject to the attention of the Committee, he felt it his duty to commence by a grateful acknowledgment of their politeness in refusing to rise and avoid a discussion which was rendered important by such a variety of considerations. The numerous petitions upon our tables, and on which the select committee cannot act until it receives the directions of this body; the repeated recommendations of the subject to our attention by successive Executives; the existence of discordant opinions between different branches of the Government on the Constitutional question; and the importance of the measure proposed; all unite in demanding the serious deliberations of the House of Representatives on the subject under consideration. Nor shall I, sir, said Mr. T., be deterred from a due investigation by any apprehensions of an unfavorable result. It is intimated, indeed, that the Executive department having declared its opinion on the subject, it is an hopeless effort to attempt in this body to control that opinion by a Constitutional majority. I will not permit such a consideration to influence my course upon this occasion. I will not upon such a suggestion yield in hopeless despair the prospect of availing ourselves of the power vested in us by the Constitution. Nothing indeed would urge me more powerfully to take up the question and decide it for ourselves than the fact of an Executive Message on the subject; since, if this House is to be dissuaded from an attempt to legislate on an important subject, by a suggestion of Executive opinion, its Constitutional powers are gone.

In fulfilling the task which has devolved upon me, and which I am fully sensible is far too weighty for my shoulders, I shall endeavor to merit the indulgence of the Committee by avoiding a dry and uninteresting recapitulation of what is advanced in the report upon your table. I shall, therefore, for the present waive a further discussion of the Constitutional question, resting

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it upon the report, until some of the able gentlemen in opposition shall have spoken, and I shall then hope for the indulgence of the Committee in replying to what may fall from them. At present I would solicit their attention to some considerations on the importance of the proposition, and to some explanation of the views of the committee in offering the resolution in its present form.

I have on another occasion reminded the House of the various recommendations of this subject to the consideration of Congress. In the year 1806, the unprecedented flourishing condition of our finances induced Mr. Jefferson, then President of the United States, to make it a special subject in his Message to Congress on the opening of their session. In pursuance of this recommendation, the legislative body passed a resolution calling upon the then Secretary of the Treasury, Mr. Gallatin, for a report on the subject of roads and canals, which was accordingly presented in the Spring of 1808. But, before the subject was acted upon, perhaps, indeed, before the report was made, the golden vision was fled; the unprosperous state of our affairs left no reason to hope that we should soon possess the means of carrying on the important national improvements that had been suggested, and the plan was accordingly abandoned. From that period for four years our difficulties only increased, until we were at length engaged in a war, which demanded all our resources and all our exertions. The war, however, had not been terminated a year before the rapidly increasing revenues of the United States again induced President Madison to recommend the subject to the consideration of Congress. An ineffectual effort was made to appropriate funds for these important services at the last session by an act which was finally rejected by the President, and the subject is again submitted to our consideration by the late Message to the legislative body.

In all these considerations there seems to have been no difference of opinion as to the propriety of vesting in the General Government the important power of undertaking great national improvements—of constructing roads and canals, and opening and perfecting the navigation of rivers. I speak, sir, of improvements of general and national concerns; for, as to those matters of inferior importance which fall more properly under State regulation, I have found no one either disposed to interfere with them, or inclined to the opinion that they are within the Constitutional powers of the General Government. The national character of the object is that which gives it both its importance and constitutionality, and it is not to be wondered, that, whilst there is such a diversity of opinion as to the construction of the Constitution, there cannot be found a statesman who has expressed a sentiment unfavorable to the possession of this power by the General Government. The considerations which support this opinion are numerous and weighty, and not unworthy of being mentioned in this discussion. The magnitude of these undertakings, of itself, furnishes an insuperable obstacle to their being

left to the unassisted efforts of the States. Can gentlemen really believe that the great scheme of internal seaboard navigation, extending from the harbor of Boston, by a chain of artificial and natural canals, to the mouth of the St. Mary's, can ever be effected by State authority? Does not the connexion of the different parts, forming one great whole, require that this noble plan should not be defeated by the want of exertion, or of funds in any particular State, through which the works must be constructed? Shall the whole scheme fall through because the little State of Delaware, less interested than other portions of the Union, finds the weight of that great work, the Delaware and Chesapeake Canal, too much for her powers? Shall the same work be prevented by the jealousy of a particular city within the State of Maryland, lest her rapid growth should be impeded by the facilities which it will afford to the back country farmer and merchant in reaching the Philadelphia market? Shall the great Cumberland road which binds the East and the West be abandoned because the central country in which it is made derives little advantage from its construction? Shall the Dismal Swamp Canal still linger for want of aid? Shall the navigation of the coterminous rivers remain incomplete because the adjoining States cannot command the funds, or agree upon the terms of their improvement? or, finally, because the Constitution of this Union has forbidden them to contract, and they can do nothing without concert?

In vain shall we have received from the hand of nature this most beautiful country—more remarkable than any in the world for its great facilities for internal communication—if the aggregated powers of the nation are not to be devoted to the completion of what is more than half finished to our hands. We have before us too many instances of the inefficacy of State efforts, to permit ourselves to be deluded by the hope that these great works can be effected by State exertion. Look at the fine river which runs before your very doors, the navigation of which has been languishing for thirty years, and which would have been within the last year completely obstructed for want of locks, but for a fortunate loan to the company of the funds, for their completion. Look at your roads within twenty miles of this metropolis; in such a state that the Representatives who travel here are in constant and imminent danger of breaking a limb or their necks. Look at these, and say whether we have reasonable ground of hope, that the great and desirable object of public improvement is likely to be attained by the efforts of the States? The expectation is futile. Those who are most interested in any particular improvement, will not have the power of making it; those who have the power will want the means or inclination. The great canal of New York, important it is true to that State, is still more important to the western part of Ohio and Indiana, and to the vast tracts of public land possessed by the United States, in those regions. Shall this work be left, then, to the unas-

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sisted efforts of the State of New York? The connexion of the navigation of the Kenawha and James rivers, by a great road and other improvements, important indeed to Virginia, is also extremely important to the Western States. Shall Virginia alone contribute to perfect it? The canal at the falls of Louisville is a matter of deep interest to the States of Pennsylvania and Virginia, as well as to Kentucky and Ohio; and shall these be left unaided in the completion of a work, from which the others are to derive so great additional advantages, and which is in no small degree, indeed, a matter of national interest and concern? They have indeed, it appears, determined to attempt some concert for the attainment of this great object. But they can make no compact without the assent of this body, and there is little hope of their making any effectual arrangement. In short, the want of funds—the want of harmony—the want of unity of views, and the want of exertion, will continue to hang upon our efforts, and prevent the improvement of our country, unless what is national in its character be placed under national control.

How different is the situation, how different the powers and resources of the Union in relation to these great objects. Securing, as we do here, a perfect concert of action, we possess ample resources which the States cannot command. Experience has proved to us, that the only fruitful source of revenue here is the impost. Whilst the States are confined to the unprofitable imposition of direct taxes, our customs are increasing with wonderful rapidity. The opening of new countries; the spreading of our population to the West; the augmentation of our numbers, must continue to increase them. What shall we do with these overflowing revenues, as Mr. Jefferson asked on another occasion? Shall they lie useless in our coffers? Shall the attempt be made to lessen the impost, to the destruction of our infant manufactures? Will the temper and opinions of the nation justify us? Shall we not be deafened with the clamors of manufacturers if we take off or lessen the burdens upon foreign commodities? Are we not now appealed to, most feelingly, to raise the impost still higher for their protection? What then shall we do with these increasing revenues? We shall either waste them in what will produce no benefit to the nation, (for the expectation of keeping our money is futile,) or we shall find it necessary to apply them in the great objects of internal improvement; thus, adding to the comfort and the happiness of the people, the wealth and the resources of the nation, the union and the harmony of the States, and the protection and defence of the Confederacy against the inroads of a foreign foe.

But why, it is asked, not amend the Constitution? The answer is easy. Those who do not believe we possess the power, are right in wishing an amendment. Those who believe we have it, would be wrong in referring it to the States; and as the Committee were of this opinion, they could not recommend an amendment. For, if

an amendment be recommended, and should not be obtained, we should have surrendered a power, which we are bound to maintain if we think we possess it. In swearing to support this Constitution, we are not less solemnly bound to maintain all the just powers of the Federal Government, than to preserve the States from its encroachments. We have no right, therefore, to put in jeopardy a power we believe to have been given us. We must decide according to our conscience, on the Constitutional question, and not refer the matter to State decision. There is no part of this Constitution which declares that doubtful questions shall be referred to the States. If there had been such a provision, it would doubtless not have rendered it necessary in such cases to obtain the acquiescence of three-fourths of the members of the Confederacy. Suppose we think we possess the power, but refer it to the States for their decision. Six small States may deny it to us, against the general sentiment of the rest of the Union. But suppose we exercise the power, and the States deny its existence. They have, by the Constitution, the power of controlling us. They may provide that we shall not exercise it. It is true they must have a concurrence of fifteen out of twenty States to effect this negative amendment. It seems indeed as if the struggle was to get the vantage ground which we occupy, if we believe ourselves invested with this power. Such indeed is the peculiar situation of things at the present moment, that it is pretty certain that three-fourths of the States would concur in neither opinion. A majority, it is believed, are in favor of the exercise of this power by the General Government. But, whilst it is evident that no negative amendment can be passed, it is equally certain, that a proposition to amend the Constitution, by giving this power to Congress, would also fail; because those States which believe we have the power, would oppose an amendment. They would be right in doing so. For every unnecessary amendment only serves to narrow and circumscribe the construction of the instrument, and, whilst it gives one power, furnishes a weapon by which ten more may be wrested from us. Thus, while it would seem to increase, it in fact diminishes the authority of the General Government, and we should soon find ourselves entangled in inextricable difficulties of construction, arising from injudicious and unnecessary amendments.

I am aware, Mr. Chairman, of the great outcry which has been raised against this proposition. It would be an affectation in me to pretend to be deaf to the tocsin which has been sounded on this occasion. The cry of alarm, sir, comes from a quarter which I cannot but respect and venerate. It is from a part of my parent State. But, whilst I shall always listen with the utmost deference to her admonitions, I must in a matter of conscience pursue the dictates of my own reflections; and I trust that I shall not find it difficult to show that the position I have assumed is neither novel nor dangerous, but has been sanctioned by some of our greatest statesmen, and has not been without the approbation of the Legislature of Virginia her-



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self. The only difference is, sir, that when these principles and these powers which I advocate, were formerly avowed, they had the support of great and illustrious names; and that was received as <sup>oracular</sup> wisdom from them, which from my feeble pen is deemed novel and daring, and dangerous, and absurd.

I have said, sir, that my opinions are neither dangerous nor novel. Where is the danger to be apprehended from the exercise of this power of expending our revenues, with State assent, in national improvement? The only pretext has been, that this power in the hands of the Government will increase its patronage. Sir, I am no friend to Executive patronage. But it is not this patronage which is dangerous. It is the power of appointing to office the members of the legislative body. If gentlemen will unite with me in taking away this power, they will lessen much more the patronage of the Government than it will be increased by roads and canals. But the danger they apprehend has escaped all those great men who have recommended that the powers of the Federal Government should be enlarged on the subject of roads and canals. Mr. Jefferson, Mr. Madison, and the present Chief Magistrate all recommend it. They could not have regarded it as dangerous, but they saw that it would be beneficial.

Nor is the reasoning or the opinion of the committee marked by anything novel or unprecedented. I will beg leave to compare some of its principles, with those avowed in a report to Congress on the subject of the Massachusetts militia claims, made by the Secretary of War, Mr. Monroe. The parallel then will be found to be striking. The committee have said, (page 5).—"The authority to make all laws which shall be necessary and proper, for carrying into execution the enumerated powers, is believed to vest in the General Government all the means which are essential to the complete enjoyment of the privilege of establishing post offices and post roads. Even without this clause the same principle would have applied: since, according to common understanding, the grant of a power implies a grant of what is necessary to its enjoyment." (Page 7).—"Of this necessity the Government can be the only judge, and, if the power of judging of this necessity be in them, the Constitutional power to act must be in them also."

So much for the committee. Let us now hear the report of Mr. Monroe, then Secretary at War: He says, speaking of the powers in relation to the militia: "In the instances under consideration, powers are granted to Congress for specified purposes in distinct terms. A right to carry powers thus granted into effect, follows of course. The Government to whom they are granted must judge of the means necessary for the purpose, subject to the checks provided by the system." If any doubt existed on this point in any case on general principles, and I see cause for none, it cannot in the present, a power having been explicitly granted to Congress by the Constitution, to pass all necessary and proper laws for carry-

ing into execution the powers vested in the General Government."—Report, as printed this session, page 22.

This, sir, is, I conceive, a correct and able exposition of the great principles of the Constitution in relation to specified and implied powers; and is in perfect unison with the principles of the report of the select committee.

But it is said we have called in the aid of precedent. The committee being about to cite various exercises of power, sometimes strongly analogous to that contended for, and sometimes much more doubtful, observe, (page 7.) "The laws of the Union, and the act of the Executive branch of the Government, though they cannot be relied on to support acknowledged error, may safely be referred to in all of our inquiries as to the proper construction of the Constitution."

Let us see if there is anything novel in this idea. Mr. Madison, in rejecting the Bank bill in 1814, expressly declares that he considered "the Constitutional question precluded by repeated recognitions under varied circumstances of the validity of the exercise of a power to establish a bank by Congress, in acts of the Legislative, Executive, and Judicial branches of the Government, accompanied by indications in different modes of a concurrence of the general will of the nation."

In the report on the Massachusetts militia claims, Mr. Monroe, after supporting, by an able course of reasoning, his view of the Constitution, adds, in order to enforce and fortify it, these remarks: "The construction given to the Constitution by the Executive, is sanctioned by legislative authority, by the practice of the Government, and by the assent and acquiescence of all the States since the adoption of the Constitution to the period of the late unhappy differences." He then proceeds to cite the instances of the construction given by the Executive department in support of his opinion.

I shall not stop now, to show why these opinions appear to me to have their foundations laid in good sense and profound knowledge of political affairs. It is enough for me at present to show, that so far from being novel, these opinions of the committee have been promulgated by our best and ablest men.

But, it is not only in the reasoning of the committee that a coincidence is discovered with long received opinions of our most distinguished statesmen. The very opinion which they have expressed was entertained and avowed, and advanced, in a report made to Congress by that celebrated man, Mr. Gallatin, while Secretary of the Treasury under Mr. Jefferson's administration.

In pursuance of a resolution of the Senate in March, 1807, requesting him to prepare and report "a plan for the application of such means as are within the powers of Congress, to the purposes of opening roads and making canals," he made, after twelve months' reflection, and under the administration and auspices of Mr. Jefferson, a detailed report, from which I beg leave to read the following passage—page 78:

"The manner in which the public money may be applied to such objects, remains to be considered. It is evident that the United States cannot, under the Constitution, open any road or canal without the consent of the State through which such road or canal must pass. In order, therefore, to remove every impediment to a national plan of internal improvements, an amendment to the Constitution was suggested by the Executive, (Mr. Jefferson,) when the subject was recommended to the consideration of Congress. Until this be obtained—the assent of the States being necessary for each improvement—the modifications under which that assent may be given will necessarily control the application of the money. It may however be observed, that, in relation to the specific improvements already suggested, there is hardly any which is not already authorized by the States, respectively, or so immediately beneficial as to render it highly probable that no material difficulty will be experienced in that respect."

"The money may be applied in two different ways: The United States may, with the assent of the States, undertake some of the works at their sole expense, or they may subscribe a certain number of shares of the stock of companies incorporated for the purpose. Loans might also, in some instances, be made to such companies."

"At present, the only work undertaken by the United States at their sole expense, and to which the assent of the States has been obtained, is the road from Cumberland to Brownsville. An appropriation for that purpose may be made at any time. In relation to all other works, the United States have nothing at this time in their power," (the assent of States in no other case having been obtained, and the Constitution not authorizing an improvement without their assent,) "but, to assist those already authorized, either by loans, or by becoming stockholders. The only companies incorporated for effecting some of the improvements considered in this report as of national and first-rate importance, are the Chesapeake and Delaware canal, the Susquehanna canal, and the Dismal Swamp companies."

It would be a waste of time to comment on this passage. No one can read it without being sensible that the opinion of the writer corresponded precisely with that of the select committee; that he considered the Congress as possessed of the power to appropriate its money for roads, and to construct roads and canals, with the qualification, however, of obtaining the assent of the States.

From the year 1808 till the first session of the last Congress, I do not perceive that this subject was again agitated; but at that session a recommendation was received from the Executive, which was conceived to admit that Congress possessed certain powers in relation to these subjects, though not as extensive perhaps as the interests of the nation might require. [Here Mr. TUCKER read a part of Mr. Madison's Message.] In consequence of this Message, a bill was brought in at the next session by an honorable gentleman who now forms a part of the Administration, (Mr. CALHOUN,) and whose aid it is a subject of the deepest regret that we do not possess on the present occasion. The principles of that bill were correspondent with those of the resolutions before you, and were supported by its mover with

an ability that illustrated every subject which he touched, and a vigor of genius which insured success to every measure that he advocated. It passed triumphantly through both Houses, and was presented for the signature of the Executive. To the great and general disappointment and surprise of its advocates, it was rejected; and it is peculiarly their misfortune that the revival of the proposition has devolved from its able supporter on the feeble hands to which it has at this session been committed.

Besides these decisive evidences that there is nothing novel or extraordinary in the proposition before the Committee, I beg leave to mention the cases of the Cumberland and Plattsburg roads. The Cumberland road is constructed from the banks of the Potomac, through parts of Maryland, Pennsylvania, and Virginia, to the river Ohio. The road has been made by the United States, and at their expense. Three or four laws have been passed, at different times, appropriating money for its construction, and these have received the assent of two Presidents, (Mr. Jefferson and Mr. Madison.) It will be my object, before this discussion closes, to prove that the construction of this road does not differ in principle from the power asserted to exist in the Federal Government by these resolutions. At present, such a discussion would be premature.

The act was not only passed by the General Government, but the three States through whose territories the road was to be made promptly passed laws giving their assent to the act of Congress. It is some consolation to me, on this occasion, when I seem to be considered in array against my State, to reflect that the State of Virginia was among the first to pass this act of assent. I think it was in the year 1806 that she gave her assent to the law.

The Plattsburg road is made without legislative authority, except that, in the contemplation of the employment of our soldiers in the construction of military roads, an addition *per diem* of fifteen cents was allowed by the last Congress. Under this authority alone a road has been directed to be constructed for military purposes, from Plattsburg to Sackett's Harbor, even without the assent of the State, and in a time of profound peace. Without calling in question the validity or propriety of any of these acts, they are regarded as exculpating the committee entirely from the hardihood of advancing bold and novel and dangerous propositions. With that view only they are at present introduced.

Sir, I should be sorry, indeed, if the only protection for State rights was to be found within these walls, and if the existence of the States was to be endangered by any proposition made here. The safety and integrity of the States, in my humble judgment, does not depend so much upon the barriers which this instrument has erected, as upon the very existence of the State governments. It is in this existence that they will always find their security. It is in the fact that there are in the confederacy twenty organized, legalized assemblies, ready and able to thwart

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the views, and check the progress of the Federal Government, when improperly administered. It is in the fact that, according to that great principle of our nature, which binds the human affections most strongly to what we enjoy in exclusion of others—to everything in which we have a distinct and separate property, rather than to what we hold in partnership or in common. It is in the fact, that from this principle the citizens of each State love their own Commonwealth better than the General Government, that we are chiefly to rely for the preservation of the sovereignty of the States. Let but a serious conflict of right exist between the two, and this must always yield. Let but this Government attempt to put down the States, and in every State the bold and intrepid defenders of State rights will rally round these organized bodies, drawing into their ranks even their members in the Federal Legislature, and annihilating a sovereignty, which, after all, is but a creature of their will. Your Congress cannot even be elected and assembled without their agency and assent. Sir, I have no apprehension of danger to the State authorities, so long as they preserve their Legislatures. What would have become of the British Monarchy if, during the troubles of 1794, there had been in its dominions twenty well organized assemblies, which met under authority of law to consult, and act about public affairs, and who carried with them to the hall of their deliberations the warm affections of the people? It would have crumbled into the dust. And so will it be with this Government, if the time shall ever come when, forgetting that it is but the breath of the nation, it shall venture seriously to invade the rights of the States. But it must be on some serious occasions. Less occasions must be met by amendment. If we do wrong, our constituents may cast us from their confidence; the States may pass an amendment, declaring we shall not exercise the power we claim. With all these checks, let us act fearlessly, according to our consciences, assert the power if we think we possess it, well assured that if we are wrong, the evil will be speedily remedied, without any essential hazard or injury to the political body.

Sir, whilst there seems to be no real danger to the liberties of the people or the integrity of the States, in this proposition, its importance and the benefits which it promises to the nation, cannot but forcibly present themselves to the mind of every member of this Committee. Look around us upon the present state of the country. Possessed of every natural advantage, there are many parts of it as unimproved as a wilderness, so far as respects the means of intercommunication. The members of this body have every morning the subject most feelingly presented to their consideration. Every morning we are turning in hopeless disappointment from our post offices, deprived even of the consolation of hearing from our distant connexions, from the failure of mails on account of impassable roads. This Constitution imposes the duty of carrying the mail, but we are without the means of carrying it, either with

safety or rapidity. Our husbandmen and planters in their turn waste a third of their labors in getting their produce to market. Even in the country where I reside, not eighty miles from tide-water, it takes the farmer one bushel of wheat to pay the expense of carrying two to a seaport town; and thus one-third of his labor is lost. Are we engaged in war, matters are still worse. Flour will be twenty dollars a barrel at Charleston and Boston, and two-and-a-half or three where I reside; and yet, for want of internal navigation, it is impracticable to avail ourselves of the price, and save our fellow-citizens from scarcity. The nation suffers yet more. An enemy on the ocean assails in rapid succession the most distant points, and we are incapable of meeting him. Our artillery, in transportation to distant parts of the Union, costs us one thousand dollars a gun; our stores have been expensive in proportion—our flour has been as high as ninety dollars, as I have understood, and it was said that the extra-expenditure of the Western campaign, for transportation alone, would have built us a navy on the Lakes, and secured us the conquest of Upper Canada. Such are the evils we encounter—and this too in a country more remarkably characterized by the beneficence of nature, than any other in the world. With a sea-coast stretching from Boston to St. Mary's, not only indented with fine harbors, adapted for foreign trade, but offering singular facilities to an internal communication on its rivers and bays, and in an extraordinary natural canal formed by the sea islands and inlets along the coast of the Carolinas and Georgia, more can be effected at a small expense than any other nation has been able to accomplish. On the western boundary of our settlements, the Mississippi, running parallel with the Atlantic coast, offers to the whole Western population the great advantages of trade; while the rivers from the Alleghany, running to the East and to the West, and emptying into the Atlantic and Mississippi, seem to bind together the whole by an indissoluble bond of union. It is to the preservation of this Union, that national improvements will chiefly tend. Our confederacy has become vastly extended, and by that extent the stability of the Union is probably endangered. Government is always feeble in the remote corners of its territory. It is the immutable destiny of extended empire. It is for us then to lessen distance, by facility of intercommunication. And when we shall have effected this great object, we may look to a degree of permanence in our institutions, which never can be realized while our people are separated from each other by impassable mountains and impenetrable morasses. Permit me, however, to read on this subject the strong language of Mr. Madison, in his Message to Congress at a late session—he says:

“Among the means of advancing the public interest, the occasion is a proper one for recalling the attention of Congress to the great importance of establishing, throughout our country, the roads and canals which can best be executed under the national authority. No objects within the circle of political economy so

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richly repay the expense bestowed on them; there are none, the utility of which is more universally ascertained and acknowledged; none that do more honor to the Government whose wise and enlarged patriotism duly appreciates them. Nor is there any country which presents a field where nature invites more the art of man to complete her own work, for his accommodation and benefit. These considerations are strengthened, moreover, by the political effect of these facilities for inter-communication, in bringing and binding more closely together the various parts of our extended confederacy."

I shall not detain the Committee by any exposition of a plan of internal improvement. The able report of Mr. Gallatin, before alluded to, affords much information on this interesting subject, and to that I will beg leave to refer. The question now before us would not justify my enlarging upon it, if I possessed the power. But I beg leave to remind the Committee that, for the completion of canals coastwise from Boston to St. Mary's—for the improvement of the navigation of some of our most important rivers, in the East and in the West—for the construction of such great roads as the national interest seemed to require, Mr. Gallatin supposed a sum of twenty millions of dollars would suffice. The bank fund, together with such of the Western lands as are already by compact devoted to the purposes of internal improvement, will probably, therefore, meet the expenditure. There is the more reason to indulge this expectation, as the contemplated improvements must be the work of time, and as the interest upon the bank fund, and the proceeds of the sales of the public lands, will probably not fall far short of the annual expenditure. When we consider the flourishing state of our finances, and reflect upon the vast sums which are expended upon less important objects, I trust we shall not hesitate to appropriate liberally to this great purpose of internal improvement. It is a fact that our expenditures in the erection, repairs, and rebuilding of the public edifices in this city, will have cost, before their completion, as much as the whole estimated expense of the canal navigation from Boston harbor to the mouth of St. Mary's river, on the extreme Southern frontier of the United States. The cost of that navigation Mr. Gallatin estimated at about - \$3,050,000

The public buildings originally cost -	\$1,200,000
The rebuilding has already cost about - - - - -	800,000
And the completion of the wings and centre building, and of the President's house, may fairly be estimated at - - - - -	1,000,000
Making - - - - -	\$3,000,000

Besides the erection of two additional offices now contemplated.

Whilst, therefore, we manifest a just liberality in some respects, let us not be blind to the great interests of the nation, or pursue a false economy in relation to the improvement of the face of our

country. Let us recollect that the whole expense which we may incur will be fully reimbursed in a few campaigns, should we again be involved in war, by the great saving to the nation which these facilities will produce. Let us husband our resources; let us not waste them upon unworthy objects, but devote them liberally to the promotion of the comfort and happiness of the people, and of the property and union of this great Confederacy.

Mr. ADAMS, of Massachusetts, submitted his reasons in opposition to the resolution.

Mr. B. SMITH, of Virginia, said: As it is probable that few of the members of Virginia will vote for this resolution, and as I shall be one of that few, I have, in yielding to a sense of duty, with no little reluctance, prevailed upon myself to ask of the Committee its indulgence, while I shall endeavor, in as concise a manner as possible, to present the reasons which will influence me in my vote. I trust that the resolution will be adopted, as it is one which I conceive to be intimately connected with the welfare of this country. At the same time, considering its magnitude, I despair of placing it in that strong and advantageous point of view to which it is so eminently entitled. The advantages to be secured by it, and which will accrue to the country from an easy and enlarged intercourse between its various parts, present to my mind considerations strongly intermingled with its best interests. At present I am not advised of any measure that could be the result of our deliberations, which would contribute more to the advancement of the general prosperity of the nation, or to the preservation of its political existence, than the one which is now the subject of consideration. If the improvement contemplated should be effected, of which there is no doubt, provided the resolution be adopted and a bill thereupon be passed, the extremes of this wide extended, and still extending Republic will be approximated, a sympathy of feeling introduced, a happy and harmonious connexion formed throughout the whole, based upon a reciprocity of interests, the most indissoluble of all ties, the surest and strongest guarantee of permanency to the Union. No longer will that supposed dissimilarity of interests, which is said heretofore to have existed between the various sections of this Union, be a pretext of jealousy and complaint on the one part, or a source of fear and alarm on the other. The general diffusion of mutual benefits will form a sanctuary, behind which all sectional feeling arising out of geographical situation may be happily extinguished, and this country be permitted, with an accelerated though steady motion, to advance on to that high destiny to which the God of nature hath allotted it. Sir, said Mr. S., whether we consider this resolution in relation to a state of peace or war, it can but be apparent to gentlemen to be pregnant with consequences of the deepest national concern. In time of peace it will prove a fountain of wealth, and, in that of war, the sinew and the strength of the nation. The expediency of its adoption, nay, I might here say

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its necessity, is clearly to be seen in the mirror of past times. In the late war, when this country was subjected to an accumulation of suffering, doomed to be deprived, nearly, of all the benefits of external commerce, its interior was but the weeping image of its own decayed and withered state, for the want of those vehicles of safe, easy, internal intercourse, which it is now the object of this resolution to afford. In addition to this, for the want of these facilities, our Government was subjected to an enormous accumulation of expense, arising out of the almost insuperable difficulties incident to the transportation of its troops and other means of defence. Those troops oftentimes paralyzed in their exertions, delayed on their marches, and thereby opportunities afforded to the enemy of committing with impunity their dark and infernal deeds of plunder, conflagration, and other offences of a much deeper die. To obviate an occurrence of like scenes, so afflicting and shocking to humanity, to prevent similar disadvantages, will be more or less, as I contend, the effect of this resolution, should it be adopted. Good roads and navigable waters winding and insinuating themselves in every direction, through this extensive country, will be to the great body politic what the veins and arteries are to the natural system. Mr. Chairman nature has done much for this country; she has been bountiful and lavish in her gifts to it; it behooves the Government, therefore, to extend its fostering hand to make them useful. This cannot be more effectually done than by making good roads in your country, and rendering those water-courses therein navigable, which are practicable of being made so. History affords us some instructive lessons on this subject; she is not silent as to the immense advantages arising to a nation, from its possession of extensive, easy inland communications. To what cause has she ascribed the early improvements of certain countries in their agriculture and manufactures? Has she not ascribed it to their possession of the facilities afforded by the means of an extended inland chain of intercourse? To what cause has she placed the opulence of the ancient Egyptians, Chinese, and Indians? Has she not placed it to their enjoyment of similar advantages? On the other hand, to what cause has she assigned the degraded, wretched, and barbarous state of those who inhabit the inland parts of Africa? Has she not attributed it, measurably, to their want of like conveniences? Sir, the agriculture and manufactures of all countries are more or less dependent upon the easiness and extent of their interior interchanges. Why then should we, with the experience of the late war, and with those historic truths beaming before us and lighting up our path, longer delay the improvement of those natural advantages which our country has thus presented to us? Is it because an opinion is entertained that Congress has no right to legislate upon the subject of roads and canals? If such be the opinion, then am I at issue with it.

The right in Congress to construct post roads may be fairly claimed from the seventh clause of

the eighth section of the first article of the Constitution, taken in connexion with the 18th clause of the same section. What, sir, are the words of these clauses? "Congress shall have power to 'establish post offices and post roads, to make all 'laws necessary and proper for carrying into 'execution the foregoing powers, and all other 'powers vested by this Constitution in the Government of the United States, or in any department or office thereof.'" The clause first mentioned, by the force of the words "to establish post offices and post roads," carries along with it, and in my opinion gives to Congress not merely the power to designate, but that of forming, opening, or constructing said roads; and the latter clause, while it expresses the necessary power that may be exercised by Congress in relation to the execution of its primary ones, renders the exercise of it dependent upon a mere question of expediency, in determining of which many considerations of a relative nature may present themselves. This latter clause being incidental, or accessorial, as it is, to the execution of the primary powers—if the fact be admitted, which to my mind cannot fairly be denied, that good roads are necessary to an expeditious and safe transportation of the mails, and to the support of the post office establishments—then is it manifest that the power to establish post roads is not merely that of pointing them out, but of opening and making them efficient; and that, as in the exercise of this incidental power, it must not only be necessary to the execution of some primary one, but also proper, that is, expedient, or, in other words, politic, the assent of the States through whose territories these roads may be intended to pass, might be made a prerequisite. This assent being obtained, the expediency to open and improve them will thereby be sanctioned, and no improper feelings excited. In the exercise of this power to construct post roads, the legal authority of the States over the soil through which they may pass is not thereby divested, but this their jurisdiction remains undiminished. The act of opening and keeping said roads in repair, either by the national funds alone, or by them in aid of those of the States respectively, only confers upon the General Government an efficient right to use them as the means of facilitating certain national purposes. This, sir, appears to me to be a just exposition of the instrument; for as on the one hand it manifests a most scrupulous regard for State authority, so on the other, it gives to Congress a power, the exercise of which is more or less essential to, and congenial with, its federate national character. It has been urged against the exercise of this power on the part of Congress, that this having been based upon the previous assent of the States thereto to be had, is an evidence of the non-existence of such a power. This appears to me to be a *non sequitur*. For, when I advert to the Constitution, I not only find substantive, but also incidental as well as qualified powers therein granted. These several characters of powers will be exercised according to the objects of them, their supposed operations and results.

For example, the power to regulate foreign commerce is external in its operations, and general in its effects, and therefore is, and will be, exercised without the consent of the States; but that of constructing post roads, whether specifically or incidentally given, though general in its results, is local and internal in its operations, and therefore expediency might well suggest its exercise with and by the consent of the States through which the roads may pass. It has also been objected to the exercise of this power, and I therefore may anticipate it again, that if the States are unwilling to keep these roads in a good state and condition for the transportation of the mails, the presumption is, they would not consent that post roads should be opened therein under the authority of Congress. This presumption does not reasonably arise; for it may easily be conceived that though the States, as such, might be unwilling to impose burdens upon their people for making and keeping in repair roads destined for national purposes, they might cheerfully yield their assent that they might be made and kept in order by means of funds drawn equally alike from all the people of the States. Should the States, however, be unwilling to have roads opened therein under the authority of Congress, it would not in the smallest degree, in my mind, impair the right of Congress to make them without such consent, provided that just compensation be made to individuals whose soil may thereby be affected. If, though I doubted on the instrument itself as to this power, that doubt would not be a little lessened, when I discover, as I have, from the document some time since laid upon our tables, the instances in which it has been independently exercised, (with the exception of the Cumberland road, opened by the consent of certain States,) both by the executive and legislative branches of the Government. This executive and legislative exercise of the power, and the non-complaint therein on the part of the nation, may be considered as so many decisions on the instrument or law itself, as thereby to afford a key to its rightful construction. If the reasoning which I have urged, to show that Congress has the right to construct post roads be considered as satisfactory, the like, when applied to military roads and canals, both considered as necessary to the military operations of the country, and the latter, more particularly, as affording facilities, and giving life and activity to its internal commerce, may also evince that Congress has a right to construct them under the powers which it possesses of declaring war, regulating commerce among the several States, coupled with the power of making all laws necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or office thereof. I would here ask, why and wherefore is it that Congress is annually engaged in making appropriations to defray expenses incident to light-houses? Is it not because they afford facilities to the external commerce of the country? And will not canals

afford like facilities to its internal commerce? They certainly will; and, in addition thereto, will, together with military roads, be necessary to the success of the military operations of the country. It may be said though, by the opponents of the power, that the sites of these light-houses, in order to give Congress exclusive jurisdiction over them, must be acquired by the consent of the State or States in which they are. Be it so; and the conclusion follows that, as there cannot be the same kind of divestiture of right on the part of the States over the canals that may be opened under the authority of Congress therein, so, also, their previous consent is not an indispensable pre-requisite to the opening of the same. Further, it has been wisely ordained that Congress shall be inhibited not only from imposing duties on articles exported to foreign countries, but from imposing them on those which may be taken from one State to another. Again: by no regulation of the external or internal commerce of the country can Congress give a preference to the ports of one State over those of another; nor can vessels bound to or from one State be obliged to enter, clear, or pay duties in another. I might here ask if the power to regulate commerce among the several States was designed originally to mean nothing more than a system of rules, what subject-matter is left on which this power to regulate internal commerce is to operate?

Sir, it does appear to me that the power to regulate commerce among the several States may consistently, and without a perversion of words, be considered as involving that of giving direction to said commerce to and from every part of the Union; and that therefore Congress has a right to open canals as necessary to that direction. Though I should be mistaken in this view, still has Congress the right to construct them as necessary to the military operations of the country. I will not detain the Committee longer than to observe, that though I am of opinion that Congress has the right to construct roads and canals as necessary to an expeditious and certain transportation of the mails, to the support of the Post Office establishment, and to the strengthening of the military defences of the country, and as affording facilities, and giving life and activity to its internal commerce, still I am induced to believe that expediency suggests, for the present, its exercise with and by the consent of the States through whose territories they may pass.

MR. CLAGETT, of New Hampshire.—Mr. Chairman, the subject under consideration is among the most important upon which we can be called to decide—it is a Constitutional and great national question; and, as I had the honor to be one of the committee to whom it was referred, and having been unable to acquiesce in the report, I deem it a duty to the House and to myself, to assign the reasons which have governed me; and, for this purpose, I request the attention of the Committee of the whole House.

This resolution recommends the establishing a fund, and presents the following specific objects only, to which that fund is to be applied, viz:



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"The promotion and security of internal commerce among the several States, the improvement of post roads, with the assent of the respective States, and the construction of military roads, with the like assent of such States;" but, then, sir, by a subsequent sweeping clause, it embraces "all such other internal improvements as may be within the Constitutional powers of the General Government;" and this latter clause is not without its meaning.

Sir, although three objects only are specified, almost of the whole of this elaborate report, which is now before the public, and is recorded in your Journals, is intended to establish a power in Congress to construct roads and canals in general, and without limitation. And this is now evinced by the argument of the honorable chairman of the Committee on Internal Improvements, who introduced the report. Yes, sir, a "latitudinous" constructive power is contended for. We are told that Congress has this power and ought to exercise it. And we are also told, that "the success of an appeal to the people for an amendment of the Constitution would be hopeless." Sir, is this a good reason for exercising such a power, because the people are unwilling? Surely it is not; and this course is dangerous. Are not the people sovereign? Are they not jealous of their rights? And are not the powers of Congress limited? Yes, sir, most certainly they are. By the 10th article of the amendments of the Constitution, "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people." Where, then, is this power found?

The report says: "The committee do not conceive it necessary to call to their aid the liberal principles of construction which the occasion might justify." They disavow any use of the general phrase in the Constitution "to provide for the common defence and general welfare," as applicable to the enumeration of powers, or as extending the powers of Congress beyond those specified in the Constitution; and they admit that, to support these positions, it must appear that the powers contended for are expressly granted, or that they are both necessary and proper for carrying into effect some other express power; and for this power they principally rely upon the eighth section, first article of the Constitution, "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes."

Sir, by what rule of construction can this clause be applied to the construction of roads or digging canals? If it can be so applied, then, by a parity of reasoning, we may extend it to the building of boats, manning them, and even furnishing goods and merchandise. This might be acceptable to the States immediately benefited, and it might have "their assent;" but how would it affect the other States in the Union? Would they be satisfied with such "internal improvement," such a "regulation of commerce," or with such a monopoly in those favored States? I think not.

But, by the same rule of construction, why not build merchant ships and furnish them for foreign commerce? The rule is equally applicable; and, by the same rule, you might extend your roads and canals into the Indian country. But, sir, this is not the intent and meaning of the Constitution. It means no such thing; it does not authorize Congress to create commerce, but to regulate and cherish that which already exists, in order that the benefits should be equally felt throughout the whole nation.

Mr. Chairman, it has been said, in support of this resolution, that the United States present a wide field for internal improvement. Sir, I feel pride in admitting this fact, and in the belief that the people of the several States, equally sensible of it, are making great progress in it; and that the time is not far distant when internal improvement will be carried to high perfection. But this is no argument in favor of Constitutional power in Congress to construct roads and canals. But the question is, have we such power? It is admitted in the report that the wants of the nation cannot confer power; but it is there said, those wants may justly afford aid in construing the Constitution. Sir, if the power be granted, no such aid is wanted; if not granted, such wants give no aid.

But, in the same report it is said, "when power is only felt in the blessings it confers, a less rigorous construction is justifiable;" and again, in the same report, it is said: "There is no danger that such power will be abused while the vigor of representative responsibility remains unimpaired; and that upon this principle the framers of the Constitution mainly relied for the protection of the public purse!" Sir, I cannot admit this doctrine; it is too "latitudinous;" it is dangerous; and, by the same rule, under the terms "common defence and general welfare," you might enact laws for each State; such laws might confer blessings," but perhaps they would not be cordially received. The several States claim the power, and will exercise it, of enacting their own laws; nor will it be contended that Congress have this power.

The powers of Congress are limited to certain objects, and cannot be extended without an amendment of the Constitution. This Constitution has granted to Congress the power of "exclusive legislation in all cases whatsoever, over such District, not exceeding ten miles square, as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall belong, for the erection of forts, magazines, arsenals, dock yards, and other necessary buildings; and to make all laws necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the Government of the United States, or in any department or office thereof." These are great and extensive pow-

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ers, but they are guarded with jealousy, and scrupulously limited.

Sir, suppose Congress should deem it necessary to extend the boundary of this District twenty instead of ten miles square; and suppose Virginia and Maryland, or any State contiguous, should assent to it; would such a measure be proper? Could you accept of such cession, or extend the District? No, sir; you could not accept the cession, nor could you extend the District one rod. Again, sir, suppose you wanted a small spot of ground whereon to erect a fort or magazine, could you constitutionally take possession of it, or even purchase it of the owner, without the consent of the State wherein it might be? No, sir, not one foot. Nor could you, with such consent, unless express power for that purpose had been given you, any more than you could extend the limits of this District. Where, then, is this power, without or with the consent of a State, to construct roads and canals? It is not found in the Constitution, and it does not exist. Why, then, make this appropriation? Why establish this fund? It is hoped that the "vigor of representation" will be sufficient to prevent it. But, sir, why press this subject in opposition to the "deliberate and settled opinions" of statesmen, who are entitled to high confidence and respect? Why not make the appeal to the people in a Constitutional way, agreeably to the recommendations of the late President Madison, as recorded in the Journals of the last Congress, and, in the Executive Message, recommended to both Houses of Congress the present session? Sir, it has been said we are not to be governed by Executive influence. I admit it; and I believe no member of this House would be more astute in preserving the separate Constitutional powers of each branch of the Government, or more tenacious of the right of personal opinion than myself. Yet, upon a subject of such magnitude as the present, if my opinion was different from those cited, I should think it no dishonor, but a duty as well as sound policy to pause and reconsider. But, sir, when it is avowed in this report, that "the sentiments advanced in the Executive Message give additional interest to the measure," an impetus to the introduction of the resolution; if I had no doubt of Constitutional power, I have strong doubts of the propriety of such a procedure, and, until those doubts are removed, my opposition will be firm. And, sir, I shall give my vote against the resolution.

Mr. LOWNDES rose to propose a modification of the proposition before the Committee. He thought it would be better to separate the Constitutional question embraced by the resolution from the question of expediency. After the adverse opinions of two Presidents had been expressed, Mr. L. thought it was proper to settle the Constitutional question, and in doing so it was best to present it free from the question of expediency, or from any embarrassments of detail; in which shape the decision would be more unequivocal, and gentlemen might vote for either branch of the proposition, and against the other,

with perfect consistency. He therefore moved, by way of amendment, the following substitute for the resolution under consideration:

*Resolved*, That, under the Constitution of the United States, Congress has power to appropriate money for the construction of post roads, military and other roads, and canals, and for the improvement of water-courses, with the assent of the States in which they may lie.

*Resolved*, That it is expedient that the sum to be paid to the United States by the 20th section of the act to incorporate the subscribers to the Bank of the United States, and the dividends which shall arise from their shares in its capital stock, be constituted as a fund for internal improvement.

Mr. JOHNSON, of Virginia, wished this subject to be fairly discussed, but could not see the necessity of separating the questions. He asked if the House would consent to sit debating merely abstract questions of Constitutional powers? He presumed no act would ever be performed until members were convinced of the convenience, the necessity, or the expediency of it, and then they would inquire, and it would be time enough to inquire, into their powers to effect it, &c.

Mr. TUCKER and Mr. TALLMADGE were in favor of the amendment.

Mr. EDWARDS inquired whether it was intended to question the power of Congress merely to appropriate money for the object, or the power of effecting the object of appropriation? to which

Mr. LOWNDES replied, that his object was, substantially, to bring forward, for decision, the right of passing such a bill as that of the last session, on this subject.

Mr. HOPKINSON observed, that, as he held that Congress had this power, with or without the consent of the States; and as he doubted whether the words, "with the assent of the States," could, according to order, be afterwards stricken out, if the amendment were now agreed to; and as he could never sanction with his vote any proposition recognising this condition as necessary to the power in question; he moved that those words be stricken out of the proposed substitute.

Mr. TUCKER, of Virginia, spoke in explanation of the views of the committee in their report. It was not intended to declare that Congress had this right without the consent of the States, (and he was inclined to believe it had not,) but merely to say that, with that consent, Congress had the power, and might exercise the right. Mr. T. then entered into the question of the extent of the power, as contended for in the report, at some length.

Mr. HOPKINSON also went somewhat at large into an examination of the question, arguing that the power of the General Government in this case was independent of the State authority or State assent; that the Constitution had not recognised State assent as necessary in any case in the exercise of any power it granted. This power, Mr. H. said, was contended for on three grounds. Its exercise was claimed under the power to establish post roads, under that to pro-

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vide for the general welfare, and under the power to regulate commerce between the several States; the right now claimed was justified as a correlative of one of these three powers, and, as neither of these powers was held dependent on the assent of the States, the minor right growing out of them could not be. As, therefore, this right rested on the Constitution, he hoped it would not be referred to the assent of the States, for though such an admission might be considered, if not necessary, at least harmless, yet he viewed it as neither harmless nor safe, but as a concession which might hereafter be productive of danger. It was improper to admit words which would hereafter render it doubtful on what ground Congress acted, and, as he was opposed to those, in principle, he hoped they would be expunged.

Mr. LOWNDES, while he concurred entirely in Mr. HOPKINSON's views of the Constitution, and though Congress might possess the power independently of the States, yet defended the propriety of retaining the words, and referring the exercise of the power within the States to the assent of the States, as the only course by which any good was likely to grow out of the proposition, &c.

Mr. MERCER was opposed to the amendment. If Congress had the right without the assent of the States, it certainly had it with that assent; and, as the assent of the States could neither give nor impair any Constitutional right, he hoped the words would be retained.

Mr. CLAY had no doubt that the Constitution had invested Congress with this power independently of any State authority; but still, though he held this opinion, he did not consider anything yielded by exercising it under the assent of the States. It was similar to acts of conciliation between neighbors, where the rights of one party might be unquestionable, &c., cases of which he supposed to illustrate his ideas.

Mr. HUGH NELSON rose to express his disapprobation of the course which had been given to this discussion. He thought Mr. HOPKINSON ought to withdraw his motion, and Mr. LOWNDES his also, and let the discussion proceed in the course from which it had been diverted. The champions of this measure had been heard; the report had been made and defended; the Ajax Telamon of the party had hurled his lance; and when Æneas prepared for the conflict, and was about to cast his javelin, Minerva interposes with a cloud, and puts an end to the contest.

Mr. CLAY, in reply, (alluding to a call he had, before Mr. HOPKINSON's motion, made on the opponents of the measure to come forward in the debate, at a moment when no gentleman had risen,) asked where was his friend Hector when that invitation was given, and why he had not accepted it?

Mr. LOWNDES was unwilling to withdraw the amendment. If the Constitutional question was to be discussed, perhaps it might as well come up on the present motion as on any other.

After some further remarks on the course of he proceeding by Messrs. TALLMADGE and SER-

GEANT, Mr. HOPKINSON observed, in allusion to the quotation from Homer, that, as, in contending for the dead body of Patroclus, the two armies were drawn into a general engagement, the same effect seemed probable on this motion, he moved that the Committee now rise; which was concurred in, and the House adjourned.

SATURDAY, March 7.

Mr. SERGEANT, from the joint committee to whom the subject was referred, reported a resolution that the President of the Senate and the Speaker of the House of Representatives be authorized to adjourn their respective Houses on the 13th of April next. This resolution was read twice, and ordered to be engrossed for a third reading on Monday.

On motion of Mr. MORTON, the Committee on so much of the President's Message as relates to roads, canals, and seminaries of learning, were instructed to inquire into the expediency of providing by law for constructing a navigable canal, to unite the waters of Massachusetts Bay with the waters of Narragansett Bay, and Long Island Sound, by Taunton river.

On motion of Mr. TOMPKINS, the Committee on Pensions and Revolutionary Claims were instructed to inquire into the expediency of extending for five years to the widow and infant children of John Paulding, deceased, one of the incorruptible captors of Major Andre, the annual pension heretofore granted to the said John Paulding for his distinguished merit.

The resolution yesterday moved by Mr. CLAYBORNE, in the following words, was taken up:

"Resolved, That the President of the United States be requested to lay before this House a statement of the expenses incurred under the 4th, 6th, and 7th articles of the Treaty of Ghent, specifying the items of expenditure in relation to each."

The resolution having been amended by inserting the word *fifth* instead of *fourth*, was agreed to.

Engrossed bills of the following titles, viz: An act altering the time for holding a session of the district court of the District of Maine; and an act to alter the time of holding the circuit court in the southern district of New York, and for other purposes; were severally read the third time, and passed.

Mr. JOHNSON, of Kentucky, gave notice that on Monday next, he would move for leave to bring in a bill authorizing the people of the Michigan Territory to send a delegate to Congress.

#### INTERNAL IMPROVEMENT.

The House then proceeded to the order of the day on the question of roads and canals; and the remainder of the day was consumed in debating it.

Mr. LOWNDES having withdrawn his proposed substitute, the question recurred on the resolution originally reported by the select committee.

Mr. A. SMYTH, of Virginia, addressed the Chair, and said: Those questions which arise respecting the extent of the powers of the Government of the United States, may justly be regarded as among the most important that can come before this body. While it is our duty to maintain, unimpaired, the just powers of Congress, we should be careful not to usurp any of the powers of the State governments; and not to encroach on the rights reserved to the people. If the Federal Constitution requires any amendments, it is believed that those required are such as would render more distinct the line of separation between the powers of the General Government and the State governments, so that there shall be no ground for variance; no conflicting claim to power, such as would leave all general interests and foreign relations, exclusively to the General Government; and all local interests and internal concerns, exclusively to the State governments; and let them have no concurrent jurisdiction. Therefore, in every case where the State Legislatures have clearly a right to legislate, and our right to legislate is doubtful, I would not claim it. Let us rather diminish than increase the number of subjects, with regard to which the Federal Government and the State governments have concurrent jurisdiction. Let us leave to the State Legislatures power to do good also.

The powers which it was intended to confer by the Constitution on the General Government, were to make war, to make treaties, to regulate commerce, to levy money, and the corresponding executive and judicial duties. War, foreign intercourse, and commerce, were the great objects of the Constitution. The power to raise money, and the necessary executive and judicial powers, are the means given to attain those objects. Internal police, the power of making and administering civil and criminal law, were intended, with the exception of a few enumerated cases, to be left to the State governments.

It is contended by the select committee, as I understand, that Congress have power to raise money to be appropriated to make roads and canals, and to pass the laws for making such roads and canals by the assent of the States. On the contrary, it is contended that Congress have no authority to appropriate money to make roads and canals, or to pass laws for making such roads and canals, either with or without the assent of the States. The latter position is that which I am to attempt to maintain.

The committee support this claim to power in the General Government to make roads and canals, as being necessary and proper to carry into execution the power expressly granted to regulate commerce among the several States. They say that roads and canals will promote and give security to internal commerce, and render less expensive the means and provisions of defence. If reasons like these will justify the exercise of power, then Congress may regulate agriculture, the markets, and the manufactures, as by so doing they may diminish the expense of defence; and they may take upon themselves the sole admin-

istration of justice, so far as relates to contracts, under the pretence of giving security to internal commerce.

Sir, if such reasons are satisfactory, Congress may go still farther. I understand the argument of the select committee as if it was stated thus: Congress having power expressly granted to regulate commerce among the several States, have incidental power to do whatever will facilitate and give security to internal commerce. Canals will facilitate and give security to internal commerce; therefore, Congress may construct canals. But the major proposition is denied. If that proposition can be maintained, then Congress may assume the whole internal legislation of the nation; the whole administration of justice; the whole police, as well of the country as of cities; for all these will facilitate and give security to internal commerce.

The internal commerce that is to be regulated by Congress, is commerce among the several States, excluding the regulation of commerce between the different places in the same State. By the grant of power to regulate commerce among the several States, I presume it was intended that Congress alone should lay duties on imports from another State, designate ports, prescribe rules for the coasting trade, grant licenses, and so on.

The select committee say that the power to make roads and canals is not less incidental to the power expressly granted to regulate commerce among the several States than many of the powers exercised in relation to foreign commerce are incidental to the power to regulate foreign commerce; and several examples are produced of the exercise of power by Congress, which the committee deem as little incident to any of the powers expressly granted as that under consideration.

I do not take upon myself the task of maintaining the constitutionality of all the past acts of Congress; more especially, I shall not attempt to defend the act for making the Cumberland road, and the act for giving fifty thousand dollars to the people of Venezuela; neither of which acts were authorized by the Constitution. With respect to the other acts mentioned in the report of the select committee, if they were violations of the Constitution, they will not sanction a violation of the Constitution by us; and, if they are consistent with the Constitution, they are too dissimilar to that which it is now proposed to pass, to furnish a precedent. The power which it is now proposed to exercise is, the power to legislate respecting internal police and local interests, with the assent of the States, and to appropriate the money of the whole nation to the disposal of particular States, for the advancement of local interests.

The select committee say that Congress have power to establish post roads; and that, to this power is incidental a power to remove the mountains, and construct the roads. Suppose I were to grant this—are they post roads, and post roads *only*, that you propose to make. The resolution of the select committee is to form a fund for in-

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ternal improvement; the bill of the last session directed the application of such a fund to the making of roads and canals, and the improvement of the navigation of water courses.

Is not the express grant of power to establish post roads, an exclusion of all claim to power to establish any other kind of roads, except post roads? It seems to me to be so. If a general power to establish and make roads had been intended to be given, or had been considered as incident to the power granted to regulate commerce among the several States, a special grant of power to establish post roads *only*, would not have been given. The special power to establish post roads being granted, the general power to establish all kinds of roads is not granted to Congress.

All powers which are not granted to the General Government are retained. What is the power granted? Power is granted to establish post roads. Then the power to *make* post roads is retained. But should it be decided that "to establish," signifies "to construct," I will ask again, what is the power granted? You answer, to establish and construct post roads. Then the power to establish and construct all other roads is retained.

If we possess power to make post roads, and are to exercise it, let us do it at our own pleasure. Let us not ask leave to exercise our powers; nor bind ourselves to expend exactly seven times as much in the State of Connecticut as in the State of Mississippi. I trust that we will exercise the powers granted by the Constitution freely, as the general welfare may require. Should we provide that so much of the public money as may be allotted to make post roads shall be expended in each State, as shall be such State's proportion, according to the rule of representation, will we not thereby establish a precedent by which to ascertain the sums to be expended in each State for fortifications, or for any other permanent object whatever? The tendency of such a precedent would be pernicious. The public moneys should be expended wherever the public good shall require the expenditure.

Let us well consider the extent of the power given by the Constitution to Congress to establish post roads. Let us examine in what sense this word "establish" is used by the framers of the Constitution. We read in that instrument of establishing justice, establishing a constitution, establishing a rule, establishing offices, establishing courts. To establish, means, as used in this instrument, to give a legal existence. The power to establish post roads, is a power to give existence to post roads, as such. A power to construct the roads is not "necessary," as thirty years' experience has proved. And such a power is not "proper," because it must conflict with the authority of the States to construct their own roads. Such having been during thirty years the construction given to the clause of the Constitution granting to Congress power to establish post roads, I conceive that it should be considered as settled.

One of my colleagues, who spoke yesterday, (Mr. B. SMITH) contended, that "to establish," means "to form." But, a clause of the Constitution says, that the ratification of nine States shall be sufficient for the establishment thereof. There, "establish," means to give legal existence and effect. The Constitution had been previously formed, the conventions in the States established it.

If the power of Congress to establish post roads authorizes the construction of the roads so established, the President has already the power to construct all the roads which you have established. You have exercised your Constitutional power already, and nothing remains for you to do but to make the necessary appropriations. The President has power to execute the laws; and if establishing post roads authorizes their construction, the power and the duty are already with him.

Let us see what would be the effect of a power in the General Government to construct post roads. The States have their road laws; they have laid out the roads, condemned and paid for the ground, and their courts have established the roads; surveyors and laborers have been appointed to keep them in repair. The agents of the President, with their laborers and a code of federal road laws, come and take possession of these State roads; what becomes of the authority of the States over their roads? Are the surveyors and laborers of the States discharged, or is a contest for powers to succeed?

In other places the States have established turnpike companies; these companies have constructed roads, built bridges, and set up gates. The agents of the President, with their laborers, come and possess themselves of the roads and the bridges. What will become of the rights of the companies? Will they be at an end? Or will they receive tolls, while the General Government bears the expense of keeping the roads in repair?

Whatever solution of these difficulties may be offered, it seems obvious that there will be such a conflicting of jurisdiction and of interests, such an interference with the internal and local concerns of the States, as the people, in adopting the Constitution, never intended to produce.

The select committee say, that "the General Government" have power to make military roads; and therefore they infer that Congress have power to construct roads and canals, which will facilitate military operations. It does not follow, that because the President has, from the nature of the powers expressly granted to him, an incidental power to make military roads in time of war that therefore Congress, without power expressly granted, may assume power to make commercial roads in time of peace, because they may happen at some future time to facilitate military operations.

The President is commander-in-chief of the military force; in time of war he may construct roads for the march of troops and conveyance of stores; and he may dig canals to forward his operations as did Croesus, Cyrus, and Julian; in doing which, I contend that he is under no obli-

gation to ask the consent of any one. It is the President who makes war. Congress declare it, and furnish him with the means; but they cannot direct his military operations. As he commands the army in time of peace, he may employ the soldiers on fatigue duties; but if he would make a road in time of peace, I will say, that he must obtain the consent of the proprietors of the soil. The State Governments have no authority to forbid the owners of the soil to permit this; and Congress have no authority to protect the road by penal laws, or to wrest from the citizen his property.

Military roads are roads made by military men for military purposes. The admission that the Commander-in-Chief may cause such roads to be made, when necessary in time of war, affords no foundation for the claim of power on the part of Congress to make roads and canals. The power to make military roads is an Executive and military power.

It is said by the select committee that a military road has been made in the State of New York since the termination of the late war, under the orders of the President. The act of making a military road, by the President, without the assent of any one, would be equivalent to an assertion that he himself possesses the power; and would have no tendency to prove that Congress possess such a power, to be exercised with the assent of the States. The precedent, if it exists, proves, if it proves anything, that Congress have not the power; but, I have understood that no such road has been made by order of the President. The commander of the Northern army has repaired a road.

The select committee seem to suppose that the assent of the States is to enlarge the powers of Congress, and to authorize them to pass laws for constructing roads and canals, and for keeping them in repair. Such assent, in the form of an amendment of the Constitution, would give this power, and in no other form can the assent of the State Legislatures confer this power.

It is a fundamental principle, that all power is derived from the people. To Congress the people have granted certain specified legislative powers; and the people of each State have granted to the legislature thereof certain other legislative powers; the people have also granted power to the State Legislatures to enlarge the powers of Congress in a particular way, that is, by an amendment of the Constitution.

It will be recollected that no State Assembly can diminish the power of their successors. They can pass no irrevocable laws. If the consent of a State be given by law in one year, it may be withdrawn in the next. And it would be highly inexpedient to commence an extensive system of improvement, with power held by so precarious a tenure.

I would ask, can a State Legislature transfer their power to Congress? Can the Legislature of Virginia, for example, transfer their legislative power, and enable Congress to legislate for Virginia, as for the District of Columbia? Certainly

they cannot. And if they cannot transfer the whole of their legislative power, they cannot transfer a part. The States individually may cede territory to the United States, but they cannot individually cede additional power. Such additional power can be conferred on the General Government only by an amendment of the Constitution.

The people have withheld from Congress the power not delegated to them. If a power withheld from Congress is with the State Legislature, they alone may exercise it. If it is with the people, it cannot be exercised by any legislative body until they shall have granted it. Legislative power, when granted, is not transferable; nor can it be exercised by substitute; nor in any other manner than according to the constitution granting it.

If it shall be held that a State may, by its consent, increase the legislative power of Congress, it may hereafter become the duty of Congress to legislate for the roads in one State, for the poor in another, and for the administration of justice in a third. And, should the project offered by the select committee be adopted, we may be making roads and canals in ten of the States, while the other ten may reject our solicitation of additional powers with disdain. And would not the law be most partial and unjust, which would grant large sums to a part of the States, while the others were receiving nothing? Would it not be a highly objectionable state of things, should Congress possess powers in some of the States, that Congress did not possess in them all?

If we are to legislate by the assent of the States, the assent conferring the power should be first given; for, if we have not the power without the assent of the States, as the assent has not been given, we have not the power.

Congress can pass no law otherwise than in pursuance of the Constitution. If an act of Congress is passed in pursuance of the Constitution, it becomes the supreme law of the land, without the assent of any State. Then an act, which is not a law without the assent of a State, can never become a law, for it cannot have been passed in pursuance of the Constitution.

A power has been granted to Congress to exercise legislation over places purchased by consent of the State Legislature, for forts, magazines, dockyards, and other needful buildings. This specification of a particular case, in which the assent of a State may authorize Congress to legislate, excludes the claim of power to legislate by the consent of a State in any other case. And in that case the consent is given to the purchase, not to the act of legislation. The power to legislate is granted by the Constitution.

By requiring the consent of the States, you, in effect, acknowledge that you do not possess power, by the Constitution, to make roads and canals; and I think I have shown that the consent of the States will not confer it. And they ought not to grant their consent; for, as in forming the social compact, the individuals should retain all those rights which it is not necessary that they should



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resign for the good of the whole, so the State government should retain all those powers which they can exercise as efficiently as the General Government; and we ought not to ask their consent. Shall we pass acts on which each of the States will have a negative? Shall we appropriate a fund to the use of the States which not one of them may accept?

The select committee have not said whether the State courts or the Federal courts are to grant the views, and writs of *ad quod damnum*, and to establish the roads. The bill of the last session made an appropriation for roads, &c., which were to be designated by the concurrent jurisdiction of Congress and the State Legislatures. I ask, who are to pass the necessary laws for making the roads, and keeping them in repair? If we have power, let us ask the consent of no one. I am not at all disposed to appropriate the funds of the nation to execute the laws of particular States. I entirely disapprove of Congress executing a power by permission of a State Legislature.

It is contended by the select committee that, even if Congress have no power to construct roads and canals, they may, notwithstanding, give money to aid in the constructing of roads and canals by the States; that there is a distinction between a power to appropriate money for a purpose, and a power to do the act for which the money is appropriated. I deny to Congress the right to appropriate one shilling of the money of the people, except for the purpose of executing their own powers, or the powers of the Government, or the powers of some department or officer of the Government; for, no money can be drawn from the Treasury except in consequence of appropriations made by law; and no law can be passed, except such as is necessary and proper to carry into execution the powers granted to Congress, those vested in the Government of the United States, or in some department or officer thereof.

When, therefore, a question arises, whether Congress may appropriate money for a certain purpose or not, the answer must depend on that which shall first be given to another inquiry, whether it is necessary and proper for carrying into execution the powers of Congress, or of the Government of the United States, or of some department or officer thereof; and if it is not thus necessary and proper, Congress cannot pass the law to make the appropriation.

The appropriation of money, which the select committee propose to make, is not an appropriation of money for the general welfare; it is for the improvement of particular sections of country. In making war, maintaining armies and navies, regulating commerce, maintaining a judiciary, and so on, the whole people are concerned; but it is not so as to particular roads and canals. And as roads and canals are of local concern, they ought to be made by local impositions. Suppose that a law should pass according to the proposition of the select committee, and that, in Maryland, the fund should be applied to make a road from Annapolis to this city; that, in Virginia, the

fund should be applied to make a road from Winchester to Richmond; should these roads be said to be of general concern, or to provide for the general welfare?

The power of levying money is expressly granted to Congress; and the object is declared to be, to pay the debts, and provide for the common defence and general welfare of the United States. It is properly admitted by the select committee, that the clause grants no power but to raise money. The common defence and general welfare are to be provided for, by expending the money raised in the execution of the other powers expressly granted.

If Congress have greater latitude in making appropriations than in passing other laws, it is not given to them by the Constitution. It results from the circumstance that there exists no check on this power of the National Legislature, except solemn promises of its members to support the Constitution. There is little probability of a question respecting the constitutionality of an appropriation law being brought before the judiciary. And as there is no efficient corrective of the power of the Legislature to pass acts of appropriation, we should be the more scrupulous and careful not to transcend the Constitutional authority granted to us by the people.

It does not remove the objection to this appropriation that all the States may share therein. Should that equal participation be considered as removing the objection, then we may make a like appropriation to defray the civil list of each State.

The "beneficent effects" of the proposed measure are urged as furnishing an argument in favor of a liberal construction, that is, a stretch of the Constitution. But, who were they that ever seized upon power not granted to them, and did not offer the same argument in their justification? Cæsar, Cromwell, and Napoleon, overturned the liberties, and seized upon the whole power of their respective nations, with a view to produce "beneficial effects," according to them. The powers of Congress should not be extended by construction, in any case. Should that be done, all the advantages of a written constitution will be lost. Our Constitution will be no better than that of England, where the rule of construction is, that whatever has been done may be done again. Although the select committee say that the power will only be felt in "the blessings it confers," yet the Constitution does not grant to Congress every power that may confer blessings. Every usurpation is dangerous in its tendency. Every additional power tends to the aggrandizement of the General Government. Every surrender of power that the States can be lured to make, tends to their degradation.

I dislike the aspect of this proposition. It will operate as an offer of money in exchange for power. If this power is to be asked for, let the State Legislatures decide upon the expediency of granting it, before you place within their reach a sum of money, upon condition that they will agree to give you up this power. A State will

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have no alternative but to grant the consent required, or submit to the greatest injustice.

Suppose that a State Legislature should refuse its consent, not choosing that the power of the General Government should be exerted in making roads within its territory; what will become of its share of the fund? It is to be withheld, and to remain suspended as a lure to induce the State Legislature to surrender their Constitutional powers.\* Meantime the fund will be in the name of the State, and daily augmenting; and sooner or later the largeness of the sum will overcome all scruples; the State Legislatures will accept of the money, for the benefit of the State, and surrender their rights. If such measures are adopted, you may purchase one power after another, from one State after another, until this Government, like the rod of Aaron, shall have swallowed up all the rest.

This appropriation would be truly for State and local purposes, and could not be said to be for the general welfare. I deny the right of Congress to raise a revenue to be distributed among the several States. The people would not be willing to be taxed to improve particular roads even within their own States. The States which would be most benefited by the appropriation, are those which would need assistance in making internal improvements the least. Mississippi and Indiana are the States whose wants most require an expenditure of this kind; and in which such an expenditure would truly promote the general welfare; as every dollar laid out would produce two to the Government, in the advanced price of new lands. Where the population is dense, and the country already highly improved, a much greater sum will be allowed to a given extent of country, than will be allowed to a like extent, where the population is sparse and the country unimproved. Thus, to the extensive State of Mississippi you will give (should your bank stock produce six per cent.) \$2,282 annually, a sum sufficient to make half a mile of artificial road. To commence the internal improvement of that State with such a fund, would be ridiculous.

The plan proposed is actually injurious to the public interests, in this, that it contemplates the improvements being made wholly by the public purse; whereas, when roads and canals are made by corporations, the funds of individuals are employed, and those who use the improvement pay for it. Experience has proved that works of this kind are most economically made, and best managed, by associations of individuals. So soon as the wants of society shall render such works profitable, individuals will associate, unite their stock, and construct the works. And it would be impolitic to invest either private or public capital in them, unless when completed they would prove profitable. The State Legislatures will be the best judges when, and upon what conditions, to sanction such associations; and

their legal sanction, without pecuniary aid, will be sufficient. I have been told that in Massachusetts, the most highly improved State in the Union, not a dollar has been given by the Government towards making internal improvements.

The proposition is either useless, or it is but an *entering wedge*. Unless a State shall be allowed funds sufficient to make five miles of artificial road annually for each Representative she has here, internal improvement will, in some of the States, progress slowly. To make that improvement, estimating the expense by the cost of the Cumberland road, would require an annual sum of nine or ten millions of dollars. Consequently the people are to be taxed by Congress to raise the money to make local improvements, to be designated by the State governments.

In that event, the revenue to be raised by the General Government must be greatly increased; and that revenue being raised whenever internal taxes are imposed, by a general system, less adapted to the situation of the people of each State than their own revenue laws, will be the more oppressive.

The apparent advantage held out to the States is delusive; for, if one million of dollars shall be diverted from general use to the internal improvement of a State, that State must repay the money in some other way for general use; perhaps by a direct tax at the commencement of the next war. It is best to leave the improvements to be made, and the mode of raising the money, to the State Legislature.

A proposition has been offered to the House by a gentleman from the North, for clearing and rendering navigable the Tennessee river. Let us see what effect the scheme of the select committee might have in attaining that object. Half a million would perhaps effect it. The shoals are in the Alabama Territory; some ten or fifteen years hence that Territory will become a State, and be entitled to two or three thousand dollars annually from the proposed improvement fund. I leave it to you to calculate within what time that fund will clear and render navigable the Tennessee.

With respect to the precedents which have been referred to by the select committee, to prove that Congress may make the appropriation, because Congress have made other appropriations as little authorized, I will notice them briefly. As to the appropriations which have been made for the library and certain paintings, I will remark, that a library and furniture for their halls are "necessary and proper" to enable Congress to legislate with knowledge and convenience. In the selection of books and articles of furniture, we may expect a difference of opinion. Each House is authorized to appoint its officers, and consequently have a right to determine what officers are necessary; there are some who suppose a chaplain to be necessary. The bounties granted to fishermen, are authorized by the power to regulate commerce; by which power, without reference to any other, Congress might impose a duty on every article imported, and grant a

\* Such were the provisions of the bill of the last session rejected by Mr. Madison.

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bounty on every article exported from the United States. The establishment of Indian trading houses is authorized by the power to regulate commerce with the Indian tribes. The erection of beacons, piers, and light-houses, is authorized by the powers to regulate commerce, maintain a navy, and to erect all needful buildings. The act giving money to the people of Venezuela, is admitted to be unconstitutional. The act for making the Cumberland road is also believed to be unconstitutional; that for making the road from Nashville to Natchez, having been passed in pursuance of a treaty made with the Chickasaw Indians, may not be liable to the same objection. But, as the law for making the Cumberland road passed without a question having been made as to the authority of Congress to pass it, the Constitutional question remains undecided. Indeed, Congress seem to have been sensible of a deficiency of power, when enacting that the Cumberland road should be made. They have passed no laws for the protection of the road.

The discovery of this power was late in making. Had it been fairly deducible from any express grant of power contained in the Constitution, I should presume that Patrick Henry, George Mason, John Jay, or some other of the illustrious men who opposed or recommended its adoption, would have discovered this power, and mentioned it in their arguments, either as an objection or as a recommendation.

The opinions of Mr. Madison and the present Chief Magistrate, have been most deliberately formed and given, that Congress have not this power. I form my judgment by that of no man; but I consider the opinions of those two gentlemen as entitled to particular respect. They were both members of the convention who framed the Constitution, and of a convention who adopted adopted it. They both have expressed a desire (in which I by no means concur) that Congress should obtain this power. But they both declare that Congress does not possess the power.

In construing the Constitution, it is material to inquire, how did the framers understand it? How did those who adopted the Constitution understand it? How did the people understand it? It may be confidently answered, that they *all* understood the power to make and to take care of the roads would be left to the States. According to this general understanding, the Constitution should be construed and administered.

At the time of the adoption of the Constitution, Patrick Henry, lamenting the degradation of the State governments, said that no power would be left to them but to take care of the highways, to take care of the poor, and so on, and so on. Had he lived until this time, he would have found that neither of those powers are to be left to the State governments. Congress are to construct the highways and maintain the poor.

My colleague, the chairman of the select committee, (Mr. TUCKER,) has quoted the report on internal improvement, made by Mr. Gallatin while he was Secretary of the Treasury, to prove

that this Government may construct canals by the assent of the States. As I do not admit that the opinion of the gentleman himself is any authority, although expressed after having reflected a year upon the subject, I cannot admit that the opinion of Mr. Gallatin, given without discussion or consideration of the objections made to the execution of power by such assent, is authority. And as Mr. Gallatin can with facility accommodate his opinion to the situation in which he finds himself at any time placed, his opinion has with me the less weight.

My colleague observed that the projected line of internal navigation coastwise, cannot be completed without the exercise of this power by Congress, because the Constitution prohibits compacts among the States. But such compacts may be entered into by the States, with the assent of Congress; and that assent will never be withheld when the object of the compact is truly beneficial. And it is by no means sufficient for those who support this claim of power, to prove that such a power might be used beneficially by Congress. It is necessary to prove that Congress do actually possess this power. He said that the States want resources. But surely there are none of the States that could not conveniently raise resources equal to their proportion of the bank fund. The State of Virginia has devoted a considerable capital to the purpose of aiding associations of individuals for the purpose of making roads and canals. I have shown that the States will gain nothing in the end by the scheme proposed. A sum from the public Treasury will be disbursed in making improvements within their jurisdiction in time of peace, which they will be compelled to restore by taxes laid in time of war.

The gentleman from Virginia (Mr. TUCKER) told us that, unless we adopt the scheme proposed, we can make no use of our surplus revenue. This is not the first time that we have heard an anxiety expressed as to the mode of disposing of our surplus revenue. I apprehend no concern need be felt respecting that subject. Let it be recollected that we have had but one administration that diminished the national debt. Our expenses have increased with our resources, and will continue to increase. The national debt was augmented during the administration of Mr. Adams, and much more considerably during the administration of Mr. Madison. I will suggest to you in what way you will dispose of your surplus revenue for some time to come. You can dispose of one hundred millions in paying your debt; another one hundred millions will complete your fleet, naval depots, and docks; another one hundred millions will build your fortifications, and provide your arsenals; and fifty millions will provide and equip your militia to take the field.

When you have done these things, you may repeal a part of the imposts. Would not the gentleman be pleased to see agriculture relieved from the heavy taxes she now pays in duties on imports, for the benefit of manufactures? Is it not desirable that those taxes which fall principally on the poor and middling classes of society

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should be repealed? Should your Treasury still overflow, you may subscribe for or purchase the stock of turnpike, canal, and river navigation companies; and thus form a fund, to remain untouched until wars shall make it necessary to convert the stock into money. You will thus give encouragement to internal improvement, by a fiscal operation, to which there can be no Constitutional objection, and you will have the means of commencing war with success, without having your credit depressed, and being compelled to borrow money at an exorbitant premium.

The select committee have very often repeated in their report, that the assent of the States is necessary to confer this power to make roads and canals on Congress. The State Legislatures have felt no alarm; they have not suspected that the rights of the States were to be invaded. On yesterday several distinguished members of the House mentioned that Congress possess power, *without* the consent of the States, to make roads and canals. Thus it seems we are to purchase the power from the States who will sell it, and from the residue we are to take it by force. I warn the State governments to be on their guard; I call on the friends of State rights to make a stand against measures, the effect of which is to be, to lure the great States to grant their consent, and then to wrest from the weaker States their rights by the strong hand of power.

Mr. BARBOUR, of Virginia, said, that having on yesterday intimated his intention of taking part in this debate, he now rose for the purpose of expressing his ideas upon the subject. The first thing which he considered it necessary to do, was to clear the way for the discussion; to disembarass it of all extraneous matter, and to call the attention of the Committee to the question before them. A great deal had been said as to the various and important advantages derivable from a system of internal improvement; we have been told that nature had done much for the United States; and that with the aid which might, by roads and canals, be given to our natural advantages, not only individual prosperity, but public convenience and economy would be greatly promoted. He should not deny that the improvement of the country was a desirable object; but, if the position which he should attempt to maintain were correct, that is, that this system was not within the Constitutional powers of Congress, then all reasoning of this sort was wholly inapplicable. It would be properly addressed to us, if we were now discussing an amendment to the Constitution, which had for its object the giving the proposed power to the Federal Government; whenever that question shall be presented, it will behoove us to consider it with the greatest attention, and to decide it with the utmost deliberation; for, however desirable the object was, he thought it a matter of very serious doubt whether the power to accomplish it ought to be taken from the individual States and given to the United States; he thought we could not use a caution too guarded, when we were called upon to disturb that political balance which our

ancestors had settled between the several governments of this country.

The great desideratum which the convention had in view, was to devise a scheme of government which should combine the greatest practicable individual happiness and liberty with the necessary degree of national strength; they were deeply versed in the history of other times and Governments as well as their own; they had thence learned to know, that, whilst on the one hand, a single Government, embracing a large extent of territory, was incompatible with the freedom of the citizen; on the other, an association of independent States, bound together by nothing but the loose band of a mere confederacy, was like a rope of sand, and constantly in danger of falling to pieces by its own weakness. Their wisdom and experience produced the Constitution under which we live as the best system by which to effect these two great objects. To the Federal Government it had given powers few and defined, such as war, peace, negotiation, &c., which called either for the strength of the national arm, or the union of the national will. With the State governments, it had left all the remaining powers which constitute sovereignty; all those which relate to the lives and liberties of the people, and to the internal improvement, order, and prosperity of the State. He believed he had quoted, if not the words, at least the substance of the *Federalist*, No. 45, in relation to this subject. He repeated, then, that he should, at all times, with the greatest caution, attempt to disturb this political balance; his fear was, that by continued diminutions of State powers, they would ultimately become so inconsiderable in political importance, compared with the General Government, as to furnish from that very circumstance a strong argument for one national consolidated Government. Under the influence of these considerations, he doubted extremely whether he would give the power, if we were now called upon to decide that question; nay, he was inclined to believe that he would not. But we are not now about to make a constitution, but to expound one; the question, therefore, is, not what power ought to be given to us, but what has been given to us. It would be his endeavor to show, that the Constitution of the United States had not given to Congress the power of making internal improvements in the several States.

With a view to proceed with something like system, he would take up the subject in the order in which it was discussed in the report. It had admitted this principle, to wit, that, to sustain the power, it must be shown, either that it was expressly granted, or that it was both necessary and proper, as an incident to the execution of some power which was expressly granted. In further pursuance, then, of the order of the report, and taking the principle which itself had admitted, he would endeavor to show that we were not authorized to construct either post roads or military roads, or to dig canals, either by any power expressly granted or properly to be inferred.

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First, then, as to post roads, and as to the express power to construct them, the text of the Constitution was short; it was in these words: "Congress shall have power to establish post offices and post roads." The advocates of the resolutions say, that the power to establish authorizes them to construct. We say, that it gives us power to designate what roads shall be mail roads, and the right of passage or way along them, when so designated. His colleague who preceded him to-day had gone at length into the meaning of the word "establish," in itself, and as derived from various other parts of the Constitution. He should offer to the Committee some other views upon the subject. He said he utterly denied, for his own part, any authority to legislative construction; but as it was greatly relied upon in the report, and in argument also, and as perhaps the Committee might be, in some degree, influenced by it, he would beg leave to show what had been the legislative construction upon this very question, merely as an offset to the instances cited on the other side. As early as February, 1792, Congress passed an act, the title of which was "to establish post offices and post roads." The first section of this act established many roads as post roads. It was continued, amended, and finally repealed, by a series of acts, from 1792 to 1810; all of which have the same title and the same provisions, declaring certain roads to be post roads; from all of which it is most manifest, that the Legislature supposed they had established post roads in the sense of the Constitution, when they declared certain roads, then in existence, to be post roads, and designated the routes along which they were to pass. As a further proof upon this subject, the statute book contained many acts, passed at various times during a period of more than twenty years, discontinuing certain post roads. No gentleman would undertake to say, that these went further than to declare that they were no longer post roads; in the States, on the contrary, when roads were discontinued, they were actually shut up. The argument then stood thus: as, in States, discontinued roads were actually shut, and as by the laws of Congress they only ceased to be post roads, the discontinuing by States was the opposite of constructing, the discontinuing by Congress was the opposite of declaring them to be post roads. But he would go yet a step further, and show to gentlemen a legislative construction, the authority of which, he was sure, they themselves would not submit to. One of the sections of the act of 1810 provides, that, when roads shall be obstructed by gates or fences, or be out of repair for want of bridges or fences, the Postmaster General shall report the same, that Congress may establish another along the same main direction. From this it would seem that Congress considered that they not only had not power to construct post roads, but that even after an existing road was established as such, if it were obstructed or out of repair, they had no remedy but the establishment of another.

After having offered this offset of legislative

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construction, which he thought would more than balance the account on the other side, he would now repeat, that, in his opinion, it ought not to influence the Committee either way; and he would, therefore, proceed to refer the Committee, in support of his opinion, to what he considered better authority. In the first place, then, it was material to carry our recollection back to the history of the times when the Constitution was adopted; the country was not then new, but on the contrary, it had long been settled, and, as may be fairly presumed, had all those roads which the necessity or convenience of the people required; it was also fairly to be presumed, that the State governments which then were, and long had been, in existence, and which were abundantly competent to the purpose, would continue to make such roads as the increasing necessity or convenience of the people might require. Let it be remembered that they were to be post roads; no portion of the country can require a post road until it shall have been previously settled, and until there shall have arisen an intercourse of some kind between its different points; the same circumstances, then, which would require a mail road, would have previously required, in the nature of things, a road for other purposes. A strong argument, too, he thought, was derivable from the practice of Europe, with which the framers of the Constitution must be supposed to have been intimately acquainted. Upon looking into the books upon public law, and particularly *Martens*, it would be found that the different States of Europe had established posts, and, for their mutual convenience, had combined them upon their frontiers, and had, by common consent, and sometimes by treaty, a list of which would be seen in the book just referred to, stipulated a free passage for the posts through their respective territories. It seemed to him, then, probable that the Constitution intended nothing more by this provision than to enable Congress to do, by law, without consulting the States, that which he had shown had long been done in Europe, either by acquiescence or by treaty stipulation; and when it is considered that the roads were already in being, all the power which it was necessary to give, was that of designating the mail routes through the country, that thereby there might be unity of design, and continuity in the line of mails. As a still further proof of the propriety of his construction, he referred to the *Federalist*, number 42, where it would be seen that this subject was disposed of in a single paragraph, declaring it to be such a harmless power, as not to require further comment; upon this construction, it was a harmless power, but it would be far otherwise if it had been contemplated to be as extensive in its operation as is now contended for; for it is said that we have a right to cut roads wheresoever we may think proper, through the United States, and to use timber, stone, and every other material necessary for their construction. If this be the case, there is nothing to prevent us from pursuing what we consider the most judicious plan; we may, therefore, turn-

pike them, and for that purpose may incorporate a company. Suppose a State legislature to incorporate a company at the same time, and for the purpose of turnpiking the same road, he should like to hear gentlemen say which government would prevail in this collision; but, in incorporating a company, we may fix the toll to be demanded; we may inflict penalties for not paying it, and we may prescribe what carriages shall be permitted to pass upon it, as, for example, none but those of the broad-wheel kind. If we can do all this, we must have right of jurisdiction, and some right of property in the soil too; for we cannot prescribe toll, &c., without right of jurisdiction, and we cannot take the timber, and other materials necessary for the construction of the roads without some right of property in the soil. Now he had always thought that, as the States possessed both those rights at the adoption of the Constitution, they still retained them, unless they had transferred them. Have they done so? Let the last clause but one of the 8th section of the 1st article answer the question. In that clause Congress are expressly authorized to derive jurisdiction from the States, over such district not exceeding ten miles square, as, by the cession of particular States and their acceptance, should become the seat of the Federal Government; and both jurisdiction and right of soil over such places as should be purchased with the assent of the legislatures of the States, for the erection of forts, arsenals, magazines, dock yards, and other needful buildings. It seemed to him impossible to conceive that the framers of the Constitution could have thought it necessary to insert a distinct and substantive power to purchase such inconsiderable spots as these, an acre of land, for example, and at the same time intend to convey, by implication, the right to construct roads throughout the whole country, with the consequent right to use timber, &c., and to exercise jurisdiction over them. Gentlemen had said, unless Congress had the power which they contended for, that the mail roads might be obstructed or discontinued at the will of the State authorities. That consequence did not at all follow from his position; for he had admitted that we had a right, by the Constitution, to the use of the roads, or a right of way; whenever, therefore, we had by law declared a particular road to be a mail road, we had, until the law was repealed, such an interest in the use of it, as that it was not competent for the State authorities to obstruct it.

If he were right, in his idea, as to the extent of the power expressly granted in relation to post roads, it would require but little argument to prove that a power to construct could not be derived as an incident, for it was a contradiction in terms; it was a solecism in language to say, that the incidental power could be greater than the principal one. The principal power pointed out the end to be effected, and the incidental one was only the means to attain that end. But he had shown, as he hoped, that the object to be effected was only the designation of the mail

route, and, therefore, no power could extend further, which included only the means of effecting it.

He came next, in the order of the discussion, to military roads; as it respects these, it is not pretended that there is anything like an express grant in the Constitution of a power to construct them; the advocates of the resolutions, then, must derive this power, if it exist at all, by implication. They had referred it as an incidental power to the authority given by the Constitution, to declare war, and to raise and support armies. With a view to explain his ideas upon this subject, it would be necessary here, to go into some general remarks upon the nature of implied or incidental powers. He would attempt to lay down what he considered a correct principle, which was, that to justify a power, as an incident to some other, it must have a natural, direct, and obvious relation to the principal power. He believed he could illustrate his meaning more clearly by an example; he would, therefore, state a case which he had mentioned in debate during the last session. The Constitution gives us power to lay and collect taxes; a necessary incident to the attainment of this end, was the appointment of collectors. He would not say that this example furnished the precise limit to the extent of incidental powers, because neither the science of morals nor of politics, in their nature, admitted of the precision which belonged to mathematics, but it furnished a pretty good exemplification of his idea. If you adopt the principle, that everything falls within the pale of incidental powers, which remotely conduces to the attainment of any specified object, if you pursue the long chain of connexion between end and means, to the extreme link to which that chain extends, you go beyond the range of necessary and proper laws; you effectually break down all the barriers of the Constitution, and remove every limitation intended to be imposed upon us. Let us see to what point this doctrine would lead us. The Constitution gives us power to provide and maintain a navy. Ship building requires a particular kind of timber, live oak for example; if there be but a small portion of our country which produce it, shall we be at liberty to send our agents forth, to cut it down, without consulting the owners? If so, can we go a step further and seize the land upon which it grows, with a view to its preservation? These would conduce to the maintenance of our navy. Let us now for a moment, turn our attention to what would aid us in raising an efficient army. It is a very common opinion that early education is the most effectual mode of acquiring proper habits of discipline and military knowledge in general. Have we a right to establish primary schools throughout the United States, for the purpose of accomplishing this object? If we have, we must have houses, and houses require timber for their construction and soil for their foundation; have we a right to seize all these things? Can we, after the manner of the Spartans, take the children of the country from their parents, at an early age, claiming them to be the



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property of the public, to have them brought up in the course of military education? If we cannot do all these things, then we cannot, under the name of an incidental power, do whatever will remotely conduce to the attainment of an object which is granted. We must adopt some other rule, and he knew of none better than the one which he had stated, that the incident must have a natural, direct, and obvious relation to the principal. The power to construct roads, has no such necessary connexion with the powers of declaring war, and raising and supporting armies. It is said, however, that for the want of them, vast injury was sustained during the war, and enormous sums of money expended. Sir, inconvenience will not justify a construction of the Constitution in itself incorrect, for the purpose of removing that inconvenience; but he would furnish to the gentleman a Constitutional remedy. Transport your ordnance and other munitions of war, in time of peace; build other armories, if those which we have be not enough, and establish arsenals and magazines in convenient places. But, it has been asked, if a road be indispensably necessary for our Army, will you deny the power to make it? He said, cases of great urgency or necessity, might be stated, in which he would not deny it; if, in time of war, an army should be so situated as not to be able to march to the attack of the enemy, or to retreat from one, without making a road, as if, for example, there were none in the direction required, in such a situation they would possess the power; as being, for the particular purpose, a necessary incident to the right of carrying on war. But the case supposed is altogether different from the principle of these resolutions. They propose a permanent system of roads, giving the United States a right of jurisdiction over them, as well as a right of property in the soil; whilst the case which he had stated furnished a right, which, being derived from necessity, continued no longer than the cause which created it, and, therefore, the moment that necessity passed away, the right passed with it. Upon this principle a road never would be made, but when and where it was wanting; whereas, upon the principles of the resolutions, we should be attempting to construct military roads without knowing that a single American soldier would ever march upon them. We know not with what enemy we shall next be engaged in war; we might construct a military road upon our Northern frontier, and the first march of our armies might be to our Southern—and so, precisely the reverse of this state of things might occur. In exercising the right which he had just mentioned, of making a road in time of war, for the purpose which he had stated, we should only do that which, under some circumstances, one foreign State would have a right to do in the territory of another. But, say gentlemen, if you have the right in time of war, you must have it in peace, also, by way of preparation. That consequence did not at all follow. He would at once state to the Committee a case in which a right in war would be admitted, whilst no gen-

tleman would undertake to contend for it in peace. We have at this time no right to destroy any private house in the City of Washington; but, let it be supposed that we were now in war, and that the same house intercepted the operation and effect of one of our batteries, we should, without difficulty, raze it to the foundation. It is not correct in them to say, that whatever right we have in war equally belongs to us in peace also.

The next subject which the report discussed was our right to make roads and canals for commercial purposes, and this was referred, as there was no pretence of a special grant, to the power to regulate commerce amongst the several States; to regulate was to prescribe, to direct. He therefore understood the power to regulate commerce amongst the several States to authorize us to prescribe the terms, manner, and conditions on which that trade should be carried on; such, for example, as establishing ports, granting clearances, regulating the coasting trade, &c. The history of the times, upon adverting to it, would show that the object in granting this power was to prevent those feuds and strifes which experience had shown would arise between the States, in consequence of some being more and others less advantageously situated for commerce, unless it was referred to some common head to prescribe general regulations in relation to it, which would bear alike on all. He, therefore, could not for a moment entertain the idea that, under the power to regulate commerce, it was intended to make the way or to dig the channel along which it was to pass. To place this subject in a strong point of view, he would observe that the same clause gives us power to regulate foreign commerce, and that amongst the several States. Now it was most obvious that, in relation to foreign commerce, the power to regulate did not relate to the creating the channel by which it was to be carried on. That, sir, was done from the creation of the world; it consisted of the unfathomable waters of the great deep. He would leave it to the friends of the resolutions to show how the very same word, used in a particular clause in relation to two subjects, could be construed to mean one thing as it respected one of them, and a different thing as it respected the other. It had been said, however, that Congress, as incident to the regulation of foreign commerce, had exercised the right of erecting beacons, piers, and light-houses; and that the making roads and canals bore as close a relation to the regulation of domestic commerce, as those did to that of foreign. In the first place, he denied that the relation was as direct as the other. But, upon inquiry, it would be found that the erection of beacons, piers, &c., was not referred by Congress to the regulation of foreign commerce, but to that clause which empowers them to purchase sites for forts, arsenals, &c. He proved this by referring the Committee to the first volume of United States Laws, page 666-7, where there was a long list of cessions reported, of sites for these very erections. Let not gentlemen say

this clause did not warrant it. If Congress thought so, and legislated under that idea, it destroyed any force which there might be in it, as a legislative construction in relation to their power to regulate foreign commerce. He had already said that such construction ought to have no weight; and he should, in the further progress of his argument, assign his reasons at large, when he came to discuss what gentlemen called the weight of precedent.

He had thus far endeavored to prove that Congress had not the power claimed to make roads and canals, either expressly or incidentally, without the assent of the States. He came now to another proposition which the report discusses, to wit: that we have the power with the assent of the States. He believed it to be impossible to maintain this position. The argument in support of it seemed to be this, that though Congress have no right, of their own mere will, to make the proposed improvements, yet, as the soil, say gentlemen, belongs to the several States, it is competent for them to yield their assent, and that, in that event, there cannot be a possible objection. This argument is met at the very threshold with this question: Although one State may consent to have the public money expended within its limits, have the other nineteen consented that their money shall be so expended? If they have not, as he should attempt to prove, it scarcely required argument to show, that the consent of one State to receive the expenditure of the money of the other nineteen, did not justify us in making that expenditure without the consent of the others. But he would pursue this idea of the consent of the States a little more closely. If we have the power given us by the Constitution, we do not want their assent; if we have it not, that assent, in the mode proposed, cannot give it to us. He would make a few remarks upon each branch of this proposition. To say that I have the power to do an act, which yet you have a right to say I shall not do, and upon your saying which I must forbear, is equivalent to saying I have the power, and yet have it not. The principle is plainly this: every power, unless limited by the terms in which it is granted, is absolute; it conveys the ability to effect its object, without consulting the will of any but the person who is to exercise it; nor do the few cases mentioned in the Constitution in which the consent of the States is made necessary, form any exception to this principle; for in those the consent is required only in getting the subject upon which power is to operate; when that is done, the power over them is exercised entirely at the will of Congress. In the whole mass of legislative powers, then, which the 8th section of the 1st article gives to Congress, there is not one, to the exercise of which the assent of the States is necessary, and, if it be not necessary to the express powers, it cannot to those which are incidental.

It was as clear a principle, that if we have not the power, the assent of the States in the mode proposed, cannot give it to us; the Constitution has provided, within itself, the way by which any

enlargement of our powers shall be obtained; it is this: Congress shall, whenever two-thirds of both Houses deem it proper, propose amendments, or, on the application of two-thirds of the State Legislatures, shall call a convention to propose them, which, when ratified by three-fourths of the States, in either of the modes pointed out in the 6th article, shall be a part of the Constitution.

This difference in the mode of proceeding is not a matter of form; on the contrary, there is the soundest reason in it. In the first place, it does not leave the question to the will of a few States, but obviates that difficulty by requiring that all should be consulted, and that the power shall not be exercised without the concurrence of three-fourths. The propriety of this course depends upon this obvious truth, that the Constitution is a compact, and that it is a violation of all correct principles to permit that compact to be altered in any of its stipulations, at the will of one of the parties to it, without even consulting the others. But there is another most important reason for pursuing this course: the Constitution, having been ratified by conventions in the several States, and those conventions having been the immediate representatives of the people of the States, in their highest sovereign character, whatever provisions it contains have been agreed to by the whole people of the United States; they have then agreed that it may be altered in the manner prescribed; but they have not agreed that it shall be altered in any other manner, even though it should be with the consent of their Legislatures; for the State Legislatures themselves act under constitutions; they meet in their character, as ordinary legislators, not as a convention. It is not competent then for them in that character to give to the Federal Government any powers over their constituents, either as it respects their persons or property, which that Government does not possess by the Constitution. Their acts would indeed be binding when called on, under the provisions of the 6th article, to decide upon proposed amendments. He spoke of them now, however, as mere legislators, without reference to that state of things. He denied, then, that the Legislature of Virginia could transfer to another Government any right in or over the soil other than that which the Constitution had authorized them to do. He said he felt that he had now arrived at the conclusion, that, if Congress had not the power in question *without*, they could not have it *with*, the assent of the States, except in the Constitutional mode.

But another view of this subject had been presented, substantially to this effect: Congress, it is said, is intrusted, by the Constitution, with the transportation of the mail; nothing can contribute more effectually to a safe and expeditious transportation of the mail, than good roads; hence, say gentlemen, the power to construct roads is necessary, and, when a State shall give its assent, it is proper also, and, being both necessary and proper, it falls within that clause of the Constitution which authorizes us to pass all laws neces-

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sary and proper to execute the several powers of the Government. To say that the assent of the States was required to make a measure, though necessary, proper within the meaning of this clause, would be at once to destroy the whole force of the provision—and, he would add, its meaning also. The select committee had, in their report, said, that this clause was only the enactment of a principle of construction, which would have existed without it; namely, that where a power, or right, was granted, everything necessary to the execution of the one, or the enjoyment of the other, passed with it. According to this rule, whenever a power is expressly given, and another is claimed as an incident, we have only to inquire, whether it be necessary to the execution of the granted one. If it be, it is proper, not because this or that person, or State, consents to it, but because it is necessary. In a word, its necessity constitutes its propriety. Let us see what might be the practical operation of the principle contended for. We wish to make a great turnpike road from North to South—we ask leave of the States—New Hampshire consents, Vermont refuses; Massachusetts consents, Connecticut refuses, and so on; he would suppose every State in the Union, in alternate succession, to consent and refuse. Upon this supposition, every other link in the chain of internal improvement would be broken—for, though it would be necessary in all, yet, according to the doctrine of gentlemen, if some refuse, it would not be proper in all. In those where it might be both necessary and proper, we might go on; but in those where it would be necessary only, we must stay our hand. Gentlemen had complained of this doctrine as subjecting the General Government to the will of the States. For his own part, he could not conceive a construction, which would produce a more complete dependence upon that will, than the one which he had just noticed, and, as he hoped, refuted.

Another great principle had been advanced in the course of this debate, which he would now examine. It was, that though Congress had no power to make roads and canals, yet they had a right to appropriate money, to aid in the construction of those which should be undertaken by the States. Gentlemen had said, that they disclaimed any use of the words, "common defence and general welfare," as giving any substantial power. It was perfectly indifferent to him, from what words, or what clause they derived it, or by what name they called it—if they possessed the power included in this proposition, the Constitution which affected to impose limitations upon us, and to give us a few delegated powers only, was mere paper and packthread. His idea as to the correct construction of that instrument, was this:—That the common defence and general welfare, were the ends proposed to be attained—the enumerated powers which followed, were the means of attaining them; and that money was the instrument, as far as it was necessary, by which those powers were to be executed. In support of this construction, he would refer the

Committee to the forty-first number of the *Federalist*, in which the question is strongly asked, for what purpose could the enumeration of particular powers be inserted, if these, and all others, were meant to be included in the preceding general powers? There could be but one answer to this question—that the specification was intended to operate as a limitation of the general words which preceded it. If, then, the proposition were correct, that we must look to the enumeration of particulars, for the extent of our powers, we must look to the same source, for the extent of our right of appropriation. For why, sir, was the right of raising money, by taxes, given us? He would answer, that money was, to the body politic, what blood was to the natural body. It gave to it its life and vigor, and enabled it to perform its functions. The power of raising it, then, was given to us, as he had already remarked, as the instrument by which we were enabled to execute our other powers. What were they? Those which were enumerated, and the necessary incidents which they involved. To those, then, must the power of appropriation, in his opinion, be limited; but, take the principle of an unlimited right of appropriation, and it brings us to this conclusion, that what the Government has not a right to do, it yet has a right to cause to be done, by means of the use of the public money. Thus, sir, suppose Congress had no right to raise armies, yet, upon this doctrine, they might appropriate money to enable the States to do it. Though Congress had not been authorized to build a navy, yet they might cause one to be built, by advancing money to all, or some of the States for that purpose, and, to bring the doctrine home directly to the present question—though it should be admitted, that they had no right to make roads and canals, yet they can effect the same object, by making the State governments the undertakers, and themselves advancing all the necessary funds, and thus any and every power, to the execution of which money was necessary, (and it is necessary to most,) might be acquired in the same way. Unless, then, the application of money shall be construed to extend to the objects of the specified powers, and their necessary incidents only, the Constitution will be chargeable with the palpable inconsistency of intending to impose limitations upon us, and at the same time furnishing us, by means of the tax-laying power with an instrument, by which we may, at pleasure, throw off those very limitations.

The only other view of the subject, he believed, which now remained to be answered, was the reference which had been made by gentlemen to precedent, in support of the ground which they had taken. If he considered it necessary, he would show that many of the precedents which had been cited, rested upon grounds altogether different from what gentlemen would seem to suppose, by the use which they proposed to make of them. The purchase of Louisiana, for example, was effected by the treaty-making power, and therefore, in no point of view, could it be applicable as a precedent for this, which is a legisla-

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tive act. The employment of a Chaplain, which had been referred by gentlemen to the power of appropriating money, it would be found rested upon a different principle. As early as 1790, a law was passed fixing the compensation of the officers of the House of Representatives, and, among others, of a Chaplain. This clearly proves that the appointment of Chaplain was referred by the House to the power of choosing its officers. Now, for the purpose of his argument, it was perfectly unimportant, as he had remarked concerning another instance of legislative construction, whether this idea was right or not. For, though it should be wrong, yet, as that was the principle upon which Congress acted, it destroys its force as a precedent in support of any other principle. But he would go no further with the cases cited; because he denied that, in relation to the construction of the Constitution, precedent ought to have any weight. We differ widely, in this respect, from Great Britain. Their Constitution consists of a series of legislative acts, the fundamental principles of the Government are alterable at the will of the Legislature. Thus, we see a British Parliament first annual, then triennial, and then septennial; and the very Parliament, too, which was elected for three years, extending the period of its own existence to seven; presenting, in that act, the monstrous political anomaly of being both the creator and creature. Let them, if they please, act upon the principle, that what yesterday was fact, to-day is doctrine; let them, if they please, justify their acts, by saying, that their predecessors had set them the example. Our Government rests upon a different foundation; upon a written charter which delineates our powers, and defines their boundaries. If a previous Congress shall have given to this charter a construction which is right, we should follow it, because it is right. If, on the contrary, they shall have given a wrong construction, we should discard it, because it is wrong. Error does not change its nature by repetition; it is error still. And let it not be urged upon us, that courts of justice submit to the authority of precedent. There is no point of comparison between a court and legislature; but, on the contrary, they present a contrast in every aspect in which they can be viewed. The former decides upon a case in which a few individuals are concerned; the latter is called upon to legislate upon a constitution, in the preservation of which, a whole people, and millions yet unborn are interested. The former decides a mere private controversy between others; the latter decides a principle of construction, upon which depend the number and extent of their own powers. The rule, therefore, which courts have adopted, that it is not so material what the law is, as that it should be certain, can never be extended to Congress; for, surely, it will not be said that it is more material to have a fixed rule of construction than that the rule should be right; once establish this principle, and the powers of Congress depend, not upon the Constitution, but their own will. But there was yet a stronger distinction between a court

and legislature than any which he had mentioned, to wit: in the nature of their functions, the province of the court is to decide what the law *is*, that of Congress is to determine what the law *shall be*; it is of the very essence of the legislative function; that the acts of every preceding legislature are repealed by every succeeding one; if a court pass a final judgment, no matter how erroneous, it can never reverse it; and, if it be the court of the last resort, the error must perpetually remain. On the contrary, if we pass a law, which proves to be an inexpedient one, either we ourselves, at our next session, or the Congress which succeeds us, can repeal it at pleasure. What, then, are all our amendatory and repealing acts, but so many conclusive arguments against the doctrine of legislative precedent? Whenever we do so amend or repeal, we decide differently, either in whole or in part, from those who went before us, and in so doing prove, beyond doubt, that we are not bound by precedent. The ordinary grounds to repeal were, that a particular law was inexpedient; for his part, he could not conceive anything which could be more inexpedient, than a violation of the Constitution. If he were told that he ought to decide any question otherwise, because those who had gone before him had done so, he would answer, that he should never sacrifice his opinion or his conscience to those of any man living; he would suppose that they had pursued the best lights of their judgments, and he, acting upon as high a responsibility, would take the liberty of doing the same. But, even take gentlemen upon their own principles, and he would ask, how many precedents will suffice to fix a rule? Will one or two be sufficient, or must there be more? Again, this country had once been divided into two great parties; and though there seemed to be a political calm at present, the same thing might happen again. Let us suppose, then, that one party establishes a precedent; the other party gets into power, and, not liking the source from which it sprang, discards it, and fixes a different one. In the vicissitudes of political events, the first party comes into power again; here, then, as far as previous decisions have gone, there is precedent against precedent, and liking the one first set best, they therefore discard the second, and establish the first. Let us suppose another revolution to take place between those who are *in* and those who are *out* of power; and the same scene would be re-acted; and thus, that Constitution, which was intended to be settled upon the firmest foundations, would be subject to be whirled about, the sport of every political gust. He would conclude by expressing his hope, that the resolutions would not pass.

Mr. CLAY (Speaker) said, he had certainly no ground to-day to urge the complaint which he had yesterday made, that gentlemen had not presented themselves in opposition to the report, or that, in opposing it by argument, they had failed to consume any portion of the time of the Committee. He would not be understood as insinuating, that the time of the House had been unpro-

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fitably employed in listening to what had been said on the subject; on the contrary, the argument which the House had just heard, and that which had preceded it, had met the question with an ingenuity and ability rarely exceeded. But, he said, he must enter his protest against some of the general principles which had been advanced in relation to the construction of the Constitution.

Mr. C. begged leave, in the first place, to state, that he had imbibed his political principles from the same source as the gentleman who had last addressed the Committee. From the celebrated production of Mr. Madison, when a member of the Virginia Legislature, of the period of 1799—which, if it had been the only paper which had ever emanated from his luminous pen, would have stamped his character as an eminent statesman—from that paper, and from others of analogous principles, he had imbibed those Constitutional opinions which had influenced his political course. If he differed from those gentlemen who professed to acknowledge the same authority, the difference was not as to principles, but as to the application of them. At the period which gave birth to those papers, Mr. C. said, the State to which he belonged, and that from which he sprung, bore a conspicuous part in arresting the career of a mad administration. The attempt then was to destroy the Constitution by a plethora; but he begged the gentleman from Virginia to reflect, that that was not the only malady by which the Constitution could be afflicted; another complaint, equally dangerous to that Constitution, was an atrophy; and if, said he, I do not go along with them in the water-gruel regimen they would administer to the Constitution, in construing it to a dead letter, and reducing it to an inanimate skeleton, let me not be charged with abandoning principle, but let them answer to the charge of thus attenuating the strength of that instrument.

He protested, he said, against construing this Constitution, as one would a bill of indictment, where any hole, through which a criminal might creep, was so much gained to the ingenious advocate. On looking at the political condition of this country we discover twenty local sovereignties having charge of their interior concerns, and of whatever regards the rights of property and municipal regulation, and one great sovereignty, for the purpose of general defence, for the preservation of the general peace, and for the regulation of commerce, internal and external. These objects, for which the General Government was established, ought to be constantly kept in view; and he would act contrary to the interest of his country who should deny to the Constitution—the sheet-anchor of the national safety—that vigor which is necessary, in the exercise of its powers, to fulfil the purposes of its institution, and to carry this country to the high destination which it is one day to reach.

In expounding the instrument, he said, constructions unfavorable to personal freedom, or those which might lead to great abuse, ought to be carefully avoided. But if, on the contrary, the con-

struction insisted upon was, in all its effects and consequences, beneficent; if it were free from the danger of abuse; if it promoted and advanced all the great objects which led to the confederacy; if it materially tended to effect that greatest of all those objects—the cementing of the Union, the construction was recommended by the most favorable considerations. He subscribed entirely to the doctrine, that power in the General Government was deducible only from express grant, or as fairly incident to the express grant. But, in interpreting the Constitution, we were not to shut our eyes against all those lights which common sense and experience had furnished in expounding all instruments. We were to look at the whole Constitution; at the history of the times when it was adopted; at contemporaneous expositions; and, above all, at the great aim and object of its framers. And he would say he hoped, without giving just cause for alarm, that he would give to the Constitution, in all that relates essentially to the preservation of this Union, a liberal construction. In cases where the power is admitted to reside somewhere in the General Government, but it was doubtful in which branch, he would contend that it belonged to Congress, as the safest repository. He would not yield his assent to what, he feared, was the too fashionable and prevailing sentiment, that of aggrandizing the Executive branch, and disparaging the Legislative. It appeared that a power was perfectly harmless when exercised by the President, and that the tocsin of alarm was sounded the moment that Congress dared to act on the same power. He never could admit, he said, that the President should take an airing in his barouche, or a Major General a promenade, with his suite of aids-de-camp, and exercise the power of ordering roads, in time of profound peace, wherever they pleased, and that the Constitution had denied the power to Congress. And yet, what had this Committee been told to-day? Why, that Cræsus, and Cyrus, and Napoleon, had exercised the power of constructing military ways; and, therefore, it was inferred that the President of the United States possesses it. What! said Mr. C., are we come to this—that imperial powers shall be ascribed to our Executive? Or, was it possible that a mere military officer might order a road, and construct it, and yet that power should be denied to the Legislative branch of the Government? And, said he, we are not only desired to acquiesce, with folded arms, in this Executive and military power, but more: whenever an appropriation, in the form of an allowance to the soldiery for fatigue duty, is asked to complete any such road, we are now, according to one of the justly reprobated doctrines of 1798, to acquiesce in the appropriation, being under a moral obligation to submit to the demand and not daring to question it.

In proceeding to a closer view of the question before the House, Mr. C. admitted that it was not one of expediency merely, but a compound question of Constitutional power and expediency. He admitted that, if the Constitution denied the power to Congress, no principle of expediency

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would authorize the exercise of it; and he would meet gentlemen on that ground. He admitted, also, that if the Constitution did not give the power without the assent of any State or States, short of the number required to authorize an amendment to the Constitution, Congress could not exercise the power. The power exists without the consent of the States, or not at all; although, in the exercise of that power, it might be prudent, and discreet, or highly proper, to consult the States, whose local and private interests were to be seriously affected by any road or canal passing through them.

What was the nature of the power proposed to be exercised, which had produced this attempt to excite alarm—this call upon the friends of State rights to rally around the State authorities, and contest every inch of ground with those who favor this report? One who had not considered the nature of this power, but had gathered his ideas from the course of the debate, would suppose that Congress were about to introduce some plague or pestilence—some gorgon dire—which was to destroy the liberties of the country. And of what power was such language used? Of a power to promote social intercourse; to facilitate commerce between the States; to strengthen the bonds of our Union; to make us really and truly one family—one community in interest and in feeling. What was there alarming in such a power? So far from viewing it with alarm, Mr. C. said, if the Emperor of Russia were to offer to make turnpike roads in the State of Kentucky, or in any other State in the Union, (though he should be unwilling to accept of such a boon without compensation,) he should yet be happy to have it done. The power, then, was not of an offensive nature. If the power were harmless; if in all its operations it could have no other than a beneficent effect; it was one in regard to which he should be disposed to give to the Constitution a more liberal construction than if it were otherwise. There were various considerations, besides the character of this power, which would prevent its abuse in any shape. The first of these considerations was to be found in the nature of this body, composed of nearly two hundred members, coming from every part of the Union, having but little connexion with each other. Before the power in question could be exercised in regard to any particular object, that object must be one of striking and prominent national importance; the conflicting and various interests of this Union must be reconciled in its favor, and Congress must be clearly satisfied of its utility, and of its tending to the general benefit. This alone, he said, was an almost insuperable difficulty in the way of acting on this subject; and the great danger was, not that the power would be improperly used, but that the legislation under it would be too restricted, and that frequent instances would occur of objects truly national in their character being neglected or not executed, from the impossibility of producing a concurrence of all in relation to them. There was a further difficulty, he said, in relation to the means to be applied to those objects.

We have, fortunately, by the creation of the Bank of the United States, got into our possession an unexpected sum of money which may be thus applied. But suppose we had not, said he, do you imagine that any gentleman would move for a direct tax, or any other tax, with a view to this object? He believed not; and he assured the Committee there was no ground of apprehension of the power's being abused by excessive legislation, but that, owing to the difficulty of concentrating the general opinion upon the end, and of uniting in the mode of raising the means, the just apprehension was that too little would be done.

In regard to the principles of construction of the Constitution, Mr. C. repeated, there was no essential difference between himself and the gentlemen who had spoken—particularly the last, (Mr. BARBOUR)—though, he said, the gentlemen had certainly pushed, in their application, those rules of interpretation further than I am disposed to go; for, (if the gentleman will excuse me,) the pleasure with which I heard his argument, was something like that which a surgeon may be disposed to feel when a skillful operator is amputating a limb or dissecting a body; and the ingenuity which he displayed in frittering away the Constitution is not consistent with my idea of the great principles of 1797, in which I profess implicitly to confide.

What was the object of the Convention, Mr. C. asked, in framing the Constitution? The leading object was UNION. He called the attention of the House to that letter, signed by the Father of his Country, which accompanied the Constitution, when proposed to the States for their ratification, and which unfolds the views of the Convention at the time of adopting that instrument. The following is an extract:

"In all our deliberations on this subject, we kept steadily in view that which appears to us the greatest interest of every true American—the consolidation of our UNION, in which is involved our prosperity, sollicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each State in the Convention to be less rigid on points of inferior magnitude, than might have been otherwise expected; and thus the Constitution, which we now present, is the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable."

Union, then, Mr. C. repeated, peace external and internal, and commerce, but most particularly union and peace, were the great objects of the framers of this Constitution, and should be kept steadily in view in the interpretation of any clause of it; and, where it was susceptible of various interpretations, that construction should be preferred which tends to promote the objects of the framers of the Constitution, to the consolidation of the Union, not in the alarming sense of the phrase, but in that sense in which it was used in the quotation he had just made. With respect to union, he said, this was a moment in which he might be allowed some reflections on that head. We are told, said he, that in these hal-



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cyon days there is no such thing as party spirit; that the factions by which the country has been divided, are reduced to their primitive elements, and that this whole society is united by brotherly love and friendship: and, indeed, the President of the United States has himself observed, in his Message at the commencement of the session, that he "is happy to observe that the benign spirit of conciliation and harmony which now manifests itself throughout our Union, promises to such a recommendation (an amendment to the Constitution) the most prompt and favorable result." Sir, said Mr. C., I do not believe in this harmony, this extinction of party spirit, which is spoken of; I do not believe that men have ceased to be men, or that they have abandoned those principles on which they have always acted hitherto. We have had, to be sure, what may be considered strong proofs of it: we have seen, during the late tour, the people of those parts through which the President passed, rise *en masse*, as the audience at the Theatre Français or Covent Garden, upon the entrance of the Sovereign, to greet, to honor, and to salute him; we have seen that part of the audience from whom, for sixteen years before, nothing had been heard but scoffs and abuses, groans and hisses, enthusiastically join in the general applause, and swell the triumph. These are perhaps strong proofs—I hope they are solid—of this state of peace and harmony throughout the Union, of which the President speaks. Whether that concord now exists or not, however, union is an object which ought always to be kept in view by the American Legislature, and particularly should not be lost sight of in construing the Constitution.

With these general remarks, Mr. C. said, he would proceed to follow gentlemen in their argument on the Constitutional question. Having yielded to gentlemen the rule of construction for which they contended, that Congress could exercise no power not expressly communicated, or not proper and necessary to carry communicated powers into effect, he stated at once the extent of the position he meant to assume and maintain: that Congress have the power to make roads and cut canals without the assent of the States. He contended that they have the power to do that which appeared so alarming to gentlemen, to fell the oak of the mountain, to gather the stone which has slept for centuries useless in its bosom, and therewith construct roads—with the qualification which the Constitution has provided in one of its amendments, that, when the Government takes private property, it is bound to make compensation therefor. He would go further: when the road is once made, he contended that Congress have a jurisdiction, concurrent with the States, over the road, for the purpose of preserving it, but for no other purpose. In regard to all other matters occurring on the road, whether of crime, or contract, &c., or any object of jurisprudence unconnected with the preservation of the road, there remained to the States exclusive jurisdiction.

"Congress shall have power to establish post

offices and post roads," says the Constitution; and, to put that proposition in its clearest point of view, Mr. C. said it would be necessary to connect with this clause the last branch of the grant of enumerated powers to Congress; when the clause would thus read: "Congress shall have power to *establish* post offices and post roads, and to make all laws which shall be necessary and proper to carry into execution the power to *establish* post offices and post roads." What laws, then, were necessary to establish post roads? If, said Mr. C., the gentleman really be the Achilles he has been represented to be, here I have him by the heel. What is the power to establish post roads? Does it merely mean to adopt, to designate, what has before existed? That was the gentleman's proposition; but he would show, from the well-ascertained meaning of the word itself, and from the sense in which it was used in the clause under consideration, and in other parts of the Constitution, that *establish*, meant *to make, to build, to construct*. He would not, he said, trespass on the patience of the House by introducing a dictionary as authority in this case; but if gentlemen would refer to any dictionary for the meaning of the word *establish*, they would find it was not to designate, but to make, to construct. The meaning of the expression was strongly illustrated, he said, when applied to post offices, to which it referred as well as post roads. Could the expression "to establish post offices," mean to designate some offices already established by State authority? That would be absurd; for, there being no post offices previously established, there were none to adopt or designate. To establish a post office, then, was to make an office; to build or hire one, and to provide all the appurtenances. "*To establish*," then, had not the meaning which was contended for; and it was those persons who construed away the meaning of the instrument, and not those who were for adhering to the Constitution, and giving to it that vigor which its framers intended, who were chargeable with doing violence to its provisions.

Mr. C. then referred to another part of the Constitution, to show, that the word *establish* not only meant *to make, or to construct*, in the general signification of the word, but that, wherever it is used in the Constitution, it is in that only true and proper sense of the word. Thus, in the clause, "Congress shall have power to establish a uniform system of naturalization." Did it mean—and on the gentleman lay the burden of proving that it did mean—that Congress have the power only to designate some pre-existing rule? And was any man so absurd, when that question was discussed a few days ago, as to say, that the power to "establish a uniform system of bankruptcy," left to Congress no option to adapt the system to the wants, or agricultural and commercial condition of the country?

Further, this word "*establish*" occurred in the first clause of the Constitution—"We, the people of the United States, in order to form a more perfect union, establish justice, &c., do ordain and

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establish this Constitution for the United States of America." In what sense, Mr. C. asked, was the Constitution thus "established?" Was it a mere adoption of a form of Government already in existence? No. There are principles in that instrument which are to be found in no Constitution previously existing. This establishment was constructing a Constitution, not adopting a Confederacy, in being prior to the Constitution. The word occurred in other parts of the Constitution, Mr. C. said, and was undeviatingly used in the sense for which he contended. For example, "the judicial power of the United States shall be vested in the Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and *establish*." What was Congress at liberty to do in establishing these courts? Were they bound to take some State local judicial system, or to look for those systems required by the wants and interests of the Confederacy? There is not a gentleman who hears me who will not agree, that, in this case, the word *establish* is used in one sense, and only one sense, as authorizing Congress to construct a system according to the extent and convenience of the country.

Let us, said Mr. C., look at the nature of this power. I contend, that all the governments in the United States are established for the benefit of the people, and that the powers given to them are so many duties—a solemn trust, to be exercised by the governors for the benefit of the governed. What, then, was the object of this power to establish post offices and post roads? It was to diffuse information, to circulate intelligence, for commercial, military, and social purposes, that all parts of the country might derive the benefits intended from the Constitution. What were the qualities necessary to give to such an object the greatest perfection of which it is susceptible? For, Mr. C. said, he laid it down as a principle, that it was the duty of the Government to give to any trust committed to its charge, the greatest perfection of which it is susceptible, having a just regard to all the great interests of the community. Generality, certainty, and celerity of transmission, were the qualities to be consulted in the establishment of post roads. What sort of certainty was it, if, on the principle of gentlemen, the mail is liable to be interrupted, say in time of war, between the Seat of Government and New Orleans, the most defenceless point in the Union, at the mere caprice of any county court choosing to change a road, or commit any other trespass, and we, in the execution of this important power, are to submit to it? For, even the provision in the Virginia law, which had been referred to, availed nothing in argument, since the same Legislature which enacted might repeal it. [Mr. BARBOUR said here, in explanation, that he had mentioned the provision of the laws of Virginia, but incidentally—he had then said, that the United States had the right of way over any road which was once declared a mail road.]—Then, resumed Mr. CLAY, all is conceded that I want. If I now understand the gentleman, then, we have the right of way over mail roads, and

it is so conferred upon us, by virtue of this Constitution, that no Virginia gentleman, or Virginia court, can interrupt that right. What sort of right of way was that, Mr. C. asked, where there was no road? If Congress have the right of way, have they not also the means to make that right efficient? What! said he, is it contended that we have the right of way for the purpose of circulating intelligence, and that we possess no power to improve and make that right of way effectual? A mail road is designated; being so declared, it is admitted, that the county courts cannot change it; that the State cannot change it, was a fair consequence from that conclusion. But the object for which the road was originally established, by the local authority, has ceased. There is no longer any motive for its reparation or preservation. The local authority will not, therefore, repair it. The local authority cannot be acted upon by the General Government to compel its reparation. The General Government has not the right to repair it. According to the argument on the other side—it cannot remove a fallen tree, or any other impediment. It has, it is true, the right of way, but it has no right to get along this way. If the gentleman will excuse the expression, I cannot view a power, thus qualified, thus admitted, at the same time that it is substantially denied, in any other than a ridiculous light.

But it appeared, that the gentleman was alarmed at the consequences of the exercise of this power by the General Government, because the State governments, having a like power, would sometimes come in collision, and a conflict of authorities might ensue. Mr. C. said he felt no alarm on this head. The power of the General Government to lay taxes, he presumed, was not questioned. Suppose the General Government should lay a tax on a particular article, and the State government should also tax it. The gentleman himself had said we have the power to appoint collectors—and he was surprised he had yielded even so much, and that he had not denied the power to appoint collectors, since every man might be required personally to come to the Treasury, and place his money there. Suppose a collision should arise between the two collectors, as to which had the paramount right—which would prevail, Mr. C. would not say; it was a legal question, which the gentleman from Pennsylvania in his eye, (Mr. HOPKINSON) could answer better than he—but he had stated the case, to show, that wherever there is an *imperium in imperio*, as in our form of government, there necessarily will be collisions. In such cases, reason, moderation, and good sense, must come into the councils of the Government, and reconcile this conflict of jurisdictions as they can. A power to establish a Bank of the United States, is asserted and exercised by the United States, which some of the States deny; and they have already attempted to exclude the branches of that bank, by imposing taxes on them. Here, Mr. C. said, was another collision; and perhaps he should be accused of hostility to the States, when he said, that he believed they had not the power to exile these banks; and that, the power

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being granted to the United States, the States individually had no power to exercise any control over the banks thus established, but by the Constitutional process of election, changing their Representatives on this, and on the other floor of Congress. The case which had been supposed, of roads established by the General and State authorities, running parallel, was not likely to occur. No, said he, depend upon it, the States will accept, with avidity, the bounty proposed to be bestowed on them, and will not refuse a great benefit from any fastidious jealousy of the hand which offers it.

Under his construction of the Constitution, Mr. C. said, there could arise no collision between the Governments. The circulation of the intelligence of the country was an object of great importance, it would be confessed; in respect to which, an inequality now exists in the condition of the citizens of various parts of the country, which, although acquiesced in from necessity, would be an unceasing object of solicitude and remonstrance until remedied. What, he asked, was the inequality of the situation, for instance, of members on this floor, coming from different parts of the country? For seven successive mails, said he, for the want of the exercise of this right of way, we have inquired in vain at the post office for letters from the West, informing us perhaps of the fate of some sick friends and relatives at home, or of the state of our private concerns, and for seven successive mails have we been held in painful suspense; whilst gentlemen from the seaports have received their daily intelligence with that sort of certainty and celerity which every part of the United States ought to experience. Could it be said, he asked, that the Government was exercising its powers properly, when such an inequality prevailed in respect to different sections of the country? Did it become gentlemen, not subject to this inconvenience, to which we are constantly exposed every session of Congress, to say, that they would deny to other parts of the Union, the great interior, western and other sections of the country, the same advantages which they derive from the celerity and certainty of the mails? He conceived not, and he would not impute to them that intention.

The friends of the power of the General Government, for which he contended, might stop here. It was not necessary for them to turn to other parts of the Constitution; for, having proved the power to make post roads, it was certainly no objection to the power that these roads might also be used for other purposes. It was rather a recommendation that other objects, beneficial to the people, might be thus attained, though not within the words of the Constitution. Whence the power he asked, the great, the interesting power, which Congress are invoked by so many petitions to exercise, of promoting the manufactures of the country? There is no such power in the Constitution. But Congress have the power to levy taxes; and, under that power, might so apportion the taxes, that, besides raising a revenue, the manufactures of the country might be pro-

moted; which was never thought of as an objection to the exercise of the power of laying taxes. And, said he, having the power to establish post roads, may we not, at the same time, after having constructed them, allow them to be used for other purposes, connected with the good of society?

Here, then, he repeated, the power of making roads might be rested, as in express terms granted by the Constitution. But, he said, there were other parts of the Constitution to which, also, he would call the attention of the Committee, which would equally, in his judgment, authorize this power by derivation.

The power to use the physical force of the country to repel invasion, suppress insurrection, &c., was one conferred by unquestionable grant, the several clauses respecting which he would not fatigue the Committee by quoting; but there was one clause which did not attract general notice, to which he would point their attention. "The United States shall guaranty to every State 'in this Union a republican form of government, and shall protect each of them against invasion; and, on application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence.'" Thus, for every possible purpose to which it could be necessary to resort to force, Mr. C. said, the Constitution had clothed the Government with complete power to exercise the physical force of the nation. He begged leave to state here, that every man who looks at the Constitution in the spirit to entitle him to the character of an American statesman, must elevate his views to the height which this nation is destined to reach in the rank of nations. We, said he, are not legislating for this moment only, or for the present generation, or for the present populated limits of these States; but our acts must embrace a wider scope—reaching northwestwardly to the Pacific, and more southwardly to the river Del Norte. Imagine this extent of territory covered with sixty, or seventy, or an hundred millions of people. The powers which exist in this Government now will exist then, and those which will exist then exist now. For I have no idea of the powers which come into existence on occasions—such, for instance, as the right of way, which gentlemen admit to belong to an army on its march. The powers now exist in all the modifications and extent of which they would be susceptible for the wants and purposes of the population which hereafter will animate the surface of our extensive country. Suppose, then, the country to be only a little more populous than it is at present. Look at the line of the Atlantic, and that of the Mississippi—look how nature invites you to make perfect the geographical advantages which she has granted to you; and, keeping in view the great principle of preserving the Union of the States, see how essential is the power, how important its exercise, of connecting these two great lines by means of roads and canals. Moral causes have a powerful operation; and the migration of people from the Atlantic to the Western States will produce an affinity and consanguinity

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between the population of the East and of the West, which will last for a long time; but depend upon it, when society is settled down, as it will before long be, these moral causes will lose their effect. I hope it will not be whilst I live, said Mr. C.; but the man who does not look forward to another state of things, when physical causes will have their influence, is unworthy of having a place here. What, then, Mr. C. demanded, ought we to do? We ought, by the means within our power, to counteract the operation of these physical causes. Recollect, said he, that, with regard to the Mississippi, a new epoch has been produced in its navigation by the genius of Kulton. But, notwithstanding all the facility thus given to the navigation of that river and its tributary streams, it is my settled conviction that, if the General Government penetrates through the intervening mountains by roads, connecting the navigable streams on each side of them, and by such links as, for example, the great canal of New York—an object which he regarded as of the first-rate importance; if the Government thus counteracts physical effects by physical means, the result will be forever to retain two-thirds in value of the commerce in foreign commodities of Ohio, Kentucky, Western Pennsylvania, Indiana, Illinois, &c., in the old channel. With regard to the articles of foreign production, of great weight, or of great bulk and little value, or of great fragility, they may generally take the course of the Mississippi; but of the valuable commodities, in relation to which expense of transportation was a subordinate consideration, three-fourths would still pass from the Atlantic cities to the Ohio, &c. Could, then, a better basis for the Union, a stronger tie to connect the various parts of the country together, be conceived, than that of which he had spoken? Foreign commerce, said he, is the spoilt daughter of this Government. We deck her out in the most precious and costly jewels; we light up her way by Winslow Lewis's inventions; we send agents abroad to every clime and every sovereign, from the Emperor of Hayti to the Czar of Moscow, to prosecute her interests. But when the old respectable matron Agriculture asks us for something for her accommodation, gentlemen will not give her a gown even of Virginia cloth. But, Mr. C. asked, was it possible the Constitution had prohibited to Congress the power to regulate commerce between adjoining and contiguous States? He never had been more astonished than by the argument of the first gentleman who spoke this morning, (Mr. SMYTH,) and his able, ingenious, and learned colleague. The power given by the Constitution to regulate commerce "among the several States" applied, according to their doctrine, only to the regulation of the coasting trade. And am I, said Mr. C., who come from the interior of the country, to be told that the Constitution was made for the Atlantic margin of the country only; that, in regard to the great power of regulating internal commerce, Indiana, Ohio, Kentucky, Tennessee, and, indeed, all parts of the interior, are to be wholly

denied the benefit of it? The Constitution has no such limited meaning. It was intended to be commensurate with the boundaries of our country, to cover all parts alike, to give activity to all its commercial resources; and we, who are not washed by its tide-water, have as much right to the benefit of its provisions as any other part of the country.

The power to regulate commerce with foreign nations, Mr. C. said, was conferred on Congress in precisely the same terms as that of regulating commerce among the several States; the two powers therefore must have an equal latitude of construction. What was the interpretation which, by the daily acts of Congress, the first of these grants of power had received? When the question arose between the State and General Governments, respecting the right of a particular power, he admitted it was no plea for either to offer to the other that it had already exercised that power; but, if he could show that, under a given clause of the Constitution, a power had been exercised by Congress, favorable to a particular interest—and he, representing an analogous interest, asked the power to be exercised for his benefit, it was no argument in the mouth of Congress, that, having exercised the power in one instance, it could not be exercised in the other. Congress, under the power to regulate foreign commerce, had provided for the erection and maintenance of light-houses, established buoys and piers, built custom-houses, &c., and given every possible facility to it; and all these powers, in all their variety and extent, had been incidentally derived from the power to regulate commerce. It was the bounden duty of Congress to repeal all these laws, or to pass acts of an analogous character, for the benefit of the internal commerce of the country. How otherwise was internal commerce, or commerce among the interior States, to be regulated or facilitated, but by the exercise of the power for which he contended, and which the gentleman from Virginia denied? It ought not to be overlooked, in this view of the question, that no State can enter into a compact with another State, being forbidden by the Constitution. If, for example, Kentucky, or any adjoining State, should desire to have a road or canal passing through the territories of both, for their mutual accommodation, there was no way in which the object could be accomplished. It could be effected by the General Government alone, by keeping the object of union in view, in construing the Constitution, and giving to the clause respecting internal commerce that construction which had been given to the clause respecting foreign commerce; and which it was equally the duty of Congress to give in regard to the one as to the other.

There was one part of this subject, Mr. C. said which he touched with no improper intention, and with all the delicacy which belonged to it. It is not a question in regard to the revenue of the country, how it is to be raised; but it is a question of no unessential character, how the revenue, when raised, is to be expended—the places

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where it is to be disbursed, and on what objects. Would it be contended that, in respect to the twenty-five millions to which our revenue has risen, and to the fifty or sixty millions to which it may rise, that there is no object in the interior worthy of the application of any part of it, but that it must all be lavished on the margin of the ocean? That Boston, and Norfolk, and New York, and Portsmouth, were to be left to scramble on the great questions of naval depots, for the fruits of the expenditures of those national establishments, and that the great agricultural body of the country was to be the passive spectator of the gains of the seaboard from the labor of the interior? Was he to be told that from that interior one continued stream of riches was to flow into the Treasury of the United States, without a single drop falling to fertilize the soil through which it passes? Or, would it not be admitted that equal justice to all parts of the country required that the revenue should be more equally distributed for the benefit of the respective parts of it? The power then to regulate the foreign commerce of the United States, having received its exposition, such as he had stated it, from the earliest date of the Constitution, it was an argument of irresistible force, addressed to this Government, to induce it to repeal those laws, or to extend equal facilities to the internal commerce of the country.

With regard to precedents, as bearing on this question, the Committee could not have but observed, Mr. C. said, that, with the gentleman from Virginia, when the precedents in point bore against the honorable gentleman, they were wholly rejected, and it was abominable to tie down the minds of the members by rules of construction, from whatever authority derived. But when those precedents were in favor of his doctrine, said Mr. C., we find the gentleman referring to the acts by dates and titles; and in this manner the gentleman had endeavored to show that the clause in the Constitution respecting the establishment of post roads meant designation merely. There was, Mr. C. said, one complete answer to this argument, derived from the acts passed in the infancy of this Government, when the Treasury was impoverished; it was not at all extraordinary that the Government did not at that period undertake to construct roads or cut canals—it would have been extraordinary indeed if they had done so under such circumstances. The laws passed at that day were passed without any discussion in relation to the subject, as far as he had heard, and could therefore, by no implication, be construed to involve a surrender of the power.

The gentleman had yielded, that a military road might be constructed by the Government, under a concurrence of circumstances, viz., first, a state of war; and, secondly, a condition of the Army requiring the road to effect a particular military operation. Prudence, Mr. C. said, forecast, the providing for contingencies, a preparation in peace for war, were favorite themes of the present day; and well might they be dwelt

upon, and enforced upon the Committee and on the nation, after the experience of the late war. He asked of the honorable gentleman from Virginia, (Mr. SMYTH,) who bore a commission in the late war, whether some of those disastrous scenes which occurred in its progress might not have been prevented, had we have had good roads provided in anticipation, for the collection and transportation of our physical force and military means? If such roads had then existed, we should have had, Mr. C. said, a different result to the campaign which terminated in the ignominious surrender of Hull, and to some other campaigns, with a particular reference to the occurrences of which he would not, at present, trouble the House. If the exigencies of the occasion had been anticipated and provided for, would that disgraceful scene have happened at the Capital, to which no American could recur without feeling the blood fly into his face? Would it have happened, if the means of intercourse had been properly improved, from which we should have called for the means of the country for its defence? He confidently answered that it would not.

But the gentleman had asked, would we make a road for ordinary purposes, under the power to make a military road? Yes, said Mr. C., I would. It is no objection to constructing a post road or military road, that it may also be used for the purpose of circulating the commodities of the country, for the purpose of travelling, or, in short, for any of the general purposes of commerce and of society.

If, Mr. C. said, he were disposed to trespass longer on the time and patience of the House, the state of his health would not permit it; he would, therefore, hasten to close his remarks. He rested the power for which he contended on the provisions of the Constitution, construed with a due and necessary regard to the objects with a view to which it is formed. We are not to look at that instrument, said he, with the eye of an ingenious advocate, who is seeking to screen from merited punishment a convicted felon. You are, said he, to take into view the great destinies of our country; to reflect, that the powers granted by the Constitution are the same at all times; that they apply with precisely the same extent to a population of five as of fifty millions. You are to look to the great purposes for which the Constitution was made. That of union was the first and dearest object, to which the attention of the country was turned in all its deliberations; and, although I should be the last to deny that you are to find your power to do a particular act in the specific grants in the Constitution, when you apply to them rules of construction, you are not to forget the purposes of the Constitution, and the duties you are called on to fulfil, that of preserving union being one of the greatest magnitude. The facilitation of commerce among the several States being greatly promotive of that object, ought to receive our attention. The transportation of military force and means, for the preservation of internal tran-

quillity, or for repelling foreign aggression, being important to the execution of either of these duties, it ought to be provided for with a due forecast, by the construction of roads and of canals. To these purposes, and to the circulation of intelligence necessary to the existence of our Government, it is indispensable that we should have them; whilst, by so doing, no legitimate power of the State governments is entrenched upon, no attribute usurped—for to them is still left every municipal power, and every power essential to sovereign character as federate States.

Resting the maintenance of the proposition under consideration on such grounds, Mr. C. said he should not stop to notice that part of the argument relating to the consent of the States. He would, however, require it as preliminary to exercising the power within any State, not that it was necessary, but because it was desirable; and, with that prudence and moderation which should characterize the acts of the Government relating to its internal policy, the power perhaps ought not to be exercised without such consent.

After returning his thanks to the Committee for the attention with which they had favored him, Mr. C. resumed his seat.

Mr. BARBOUR said that, in the course of his remarks, the SPEAKER had thought proper to refer to a part of his argument, and apply to it the epithet "ridiculous." He had risen to say, that it was his habit in debate to observe the most perfect politeness to his opponents; and that he had always endeavored, and he would advise the SPEAKER to that course, to prove their arguments ridiculous, rather than to call them so; because, if an argument was ridiculous, the House would discover it—if not, the epithet, not applying, would recoil on him who used it. It is not for me, said Mr. B., to determine whether I so elevate my vision, or see so far into futurity, as to entitle myself to the character of an "American statesman." But, on this head, I would say, that neither the pretensions of the gentleman who had made the remark, however elevated, nor mine, however humble, can be either exalted or depressed by such remarks.

Mr. CLAY said he was always obliged to any one for advice; when good, he should follow it, when otherwise, he should not. He had applied the epithet ridiculous, he said, to the gentleman's argument, and not to himself. I may not, said Mr. C., have the same elevated opinion of what the gentleman chooses to submit to the House, as he has himself. What I said was, that as the gentleman admitted that we have the right of way over post roads, to deny the use of that right is ridiculous. I did not mean, in what I said, to claim for myself the character of an American statesman. I did not deny it to the gentleman from Virginia—I think he is an eminent statesman—an ornament to his country, and to this House, in which I am happy to serve with him. We view the Constitution, however, with different eyes; he considers everything gained to the States from the General Govern-

ment as something snatched from a foreign Power. I consider it as a Government co-ordinate with them, and the true construction, I think, is to give to it all that vigor and vitality which rightfully belong to it.

Mr. BARBOUR said, in rejoinder, that he was still of opinion, on which, however, it was for the House to decide, that the error was in the SPEAKER's observations, and not in his (Mr. B.'s) argument.

And the Committee rose at a late hour, and the House adjourned.

#### MONDAY, March 9.

JOHN CROWELL appeared, produced his credentials, was qualified, and took his seat as the delegate from the Territory of Alabama.

Mr. WILLIAMS, from the Committee of Claims, made a report on the petition of Thomas B. Farish, which was read; when Mr. W. reported a bill for the relief of Thomas B. Farish; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. LOWNDES, from the Committee of Ways and Means, reported a bill for changing the compensation of receivers and registers of the land offices; which was read twice, and committed to a Committee of the Whole to-morrow.

Mr. BASSETT, from the committee on that part of the President's Message which relates to the public buildings, and to the erection of additional offices, reported a bill making appropriations for the public buildings, and for furnishing the Capitol and President's house; which was read twice, and committed to a Committee of the Whole, to which is committed the bill to provide for erecting additional buildings for the accommodation of the Executive departments.

Mr. BUTLER, from the committee appointed on the petition of Major General John Stark, by leave of the House, reported a bill for the relief of the said Major General John Stark; which was read twice, and committed to a Committee of the Whole.

The House proceeded to the consideration of the report of the Committee of Pensions, on the petition of Henry King; and, after considerable debate, the report of the committee against the claim was reversed, by a vote of 66 to 56, on the motion of Mr. ANDERSON, supported by himself, Mr. JOHNSON of Kentucky, and others, and opposed by Messrs. RHEA, SHERWOOD, and others; and the committee was instructed to bring in a bill to authorize the equitable settlement of this claim at the Treasury.

In pursuance of notice given on the 7th instant, Mr. JOHNSON, of Kentucky, asked and obtained leave to bring in a bill authorizing the people of the Michigan Territory to send a delegate to Congress; and Messrs. JOHNSON of Kentucky, POINDEXTER, and HENDRICKS, were appointed a committee to prepare and bring in the same.

The SPEAKER laid before the House a letter from the Commissioner of Claims, transmitting a report of the facts in the cases of Hannah



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Davis and others, who claim compensation for property destroyed in the military service during the late war; which letter and documents were referred to the Committee of Claims.

The SPEAKER also laid before the House the following letter from the Secretary of the Treasury:

**TREASURY DEPARTMENT, March 6, 1818.**

SIR: In conformity with the provisions of the act of Congress of the 3d March, 1817, entitled "An act to incorporate the subscribers to certain banks in the District of Columbia, and to prevent the circulation of the notes of unincorporated associations within the said District," I have the honor to state, that the presidents and directors of the banks embraced by the said act, have deposited in this Department statements of the situation of the said banks, respectively, on the 1st day of January, 1818.

From an attentive examination of these statements, I am of opinion that the concerns of these banks have been prudently conducted; that there is no just reason to doubt their solidity; and that there exists no cause of danger, arising from any kind of mismanagement. I have the honor, &c.

WILLIAM H. CRAWFORD.

Hon. HENRY CLAY,

*Speaker of the House of Reps.*

The report was ordered to lie on the table.

#### ADJOURNMENT OF CONGRESS.

The resolution providing for the adjournment of Congress on the 13th day of April next, received its third reading.

Mr. POINDEXTER, after observing on the impropriety of tying up the hands of the House in respect to the length of the session, when there was so much business on the table, &c., moved to postpone the further consideration of the resolution to Monday next.

Mr. TAYLOR was opposed to the postponement, believing that Congress might adjourn on the day fixed, if its proceedings were accelerated by the curtailment of debate; and nothing but a determination to a contrary course appeared to him to justify a postponement of the question.

Mr. EDWARDS was of opinion that, with a proper economy of time, the subjects before the House might be disposed of by the 13th of April.

Mr. BALDWIN was in favor of the postponement. There were, he said, upwards of a hundred subjects referred to Committees of the Whole, and nearly as many reports of committees lying on the table, which had not been so referred. If Congress were to adjourn on the 13th of April, how were they to dispose of upwards of two hundred subjects, many of them requiring the construction of entire systems? He knew not why a disposition should be manifested to close this session without accomplishing this object. He adverted to the great topics of manufactures, of navigation, of revenue, &c., before the House, all of which would require much time; and demanded why, in the haste to adjourn, their importance should be overlooked?

Mr. HARRISON said, he believed that, by a proper economy of time, the House might despatch all the business before it by the 13th of

April; but he was willing to let the resolution lie on the table to see whether the House was disposed to economize its time, of which he saw but little prospect at present. In addition to the objects of importance enumerated by Mr. BALDWIN, he mentioned the subject of the militia. Was it possible, he asked, that the House could adjourn the present session without acting on this subject? He hoped not; besides the many letters addressed to him, as chairman of the committee on the subject, urging the necessity of acting on it, he had been informed that the State of Georgia had declined re-enacting its militia law at its late session, on the express ground of a hope and belief that Congress would not suffer this session to pass away without acting on it.

The question on postponing the resolution to Monday, was decided in the negative—yeas 54.

Mr. FORSYTH remonstrated against the passage of this resolution, which, he said, would place the House in an awkward situation. Heretofore the two Houses had determined to adjourn only when they believed they might do so without prejudice to the public business; but, reversing that practice, it was now proposed to fix on a day of adjournment without reference to the state of public business, and to adjourn whether it were transacted or not. Whence the necessity for this extraordinary course? Was a stimulant necessary to induce the House to attend to business? He hoped, from self-respect, the House would not act on this principle; especially when, by doing the business of the House speedily and properly, the two Houses might, without this premature resolution, be able to adjourn at an early day. He therefore moved to postpone the further consideration of this resolution to the first Monday in April.

This motion was negatived.

The question was then taken on the original proposition, and decided in the affirmative—yeas 101, nays 46, as follows:

YEAS—Messrs. Abbott, Adams, Allen of Vermont, Anderson of Kentucky, Austin, Ball, Barbour of Virginia, Bateman, Beecher, Bellinger, Bloomfield, Boss, Bryan, Burwell, Butler, Campbell, Clagett, Claiborne, Cobb, Colston, Comstock, Cook, Cruger, Cushman, Darlington, Desha, Earle, Edwards, Ellicott, Forney, Fuller, Gage, Garnett, Hall of Delaware, Hall of North Carolina, Hasbrouck, Hendricks, Hoister, Hitchcock, Hogg, Holmes of Massachusetts, Holmes of Connecticut, Hubbard, Irving of New York, Johnson of Kentucky, Lawyer, Livermore, McLane, W. P. MacLay, Marr, Mason of Massachusetts, Mason of Rhode Island, Merrill, Mills, Morton, Murray, Hugh Nelson, T. M. Nelson, Ogden, Ogle, Owen, Patterson, Pawling, Pindall, Pleasants, Porter, Quarles, Rhea, Rich, Richards, Robertson of Kentucky, Ruggles, Sampson, Schuyler, Scudder, Settle, Seybert, Sherwood, Slocomb, Ballard Smith, J. S. Smith, Spencer, Stewart of North Carolina, Strong, Tarr, Taylor, Tompkins, Townsend, Trimble, Tucker of South Carolina, Tyler, Upham, Walker of Kentucky, Wallace, Wendover, Whiteside, Williams of Connecticut, Williams of New York, Williams of North Carolina, Wilson of Massachusetts, and Wilson of Pennsylvania.

NAYS—Messrs. Anderson of Pennsylvania, Baldwin,

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Barber of Ohio, Bennett, Blount, Crafts, Crawford, Floyd, Folger, Forsyth, Harrison, Horkimer, Hopkinson, Huntington, Johnson of Virginia, Jones, Kinsey, Linn, Little, Lowndes, Middleton, Moore, Mumford, Jeremiah Nelson, Orr, Palmer, Parrott, Peter, Poindexter, Reed, Ringgold, Savage, Sawyer, Shaw, Silsbee, Simkins, S. Smith, Alexander Smyth, Speed, Stuart of Maryland, Terrill, Terry, Tucker of Virginia, Walker of North Carolina, Whitman, and Wilkin.

#### DISTRICT COURTS OF NEW YORK.

The bill respecting the District Courts of the United States for the district of New York, was taken up on its second reading; and the question having been stated on ordering the bill to be engrossed for a third reading—

Mr. FORSYTH requested, from the chairman of the Judiciary Committee, information why the House was called upon to legislate so frequently respecting the courts for the district of New York. Not long since a law was passed authorizing one of the district judges to perform the duties of another, who was sick, &c. Mr. F. said he could not understand why it was necessary to make the district of New York continually an exception to the general judiciary system of the United States.

Mr. H. NELSON said that the ill state of the health of one of the judges, which made the particular law referred to necessary, still continues; and as a judge could not be removed on account of ill health, there was no remedy but by the law which the House was now called on to re-enact. There had been also some difficulty between the judges as to notice necessary from one to require the attendance of the other; for which it was one of the objects of the bill to provide a remedy.

Mr. FORSYTH then said he should like to know how long this state of things was to continue. If he was correctly informed, he said, that individual who was too sick to perform his judicial functions, was in the habit of every year traversing the United States, from one end of the country to the other. Whilst his health did not allow him to attend his official duties, it allowed him to travel from New York to Charleston and back every year. Mr. F. said, he differed from the gentleman from Virginia in opinion in one particular: he thought there was a remedy, and a very obvious one, for this grievance. If an individual hold an office under the United States, the duties of which he is unable to perform, he ought to quit it. If the state of his health detain him from the performance of his duties, and he do not quit his office, it is in the power of the House, said Mr. F., to apply a remedy by an impeachment; and, in preference to this mode of legislating for a particular case, he should be glad to see that course resorted to.

Mr. H. NELSON said that the Committee had seen no remedy but that which they had submitted. It was perfectly competent, however, for the gentleman from Georgia to propose the course which he had suggested, if he thought it the proper one, though the Judiciary Committee had

been of a different opinion. But, even in that case, it was necessary to pass this bill, in order that the court should not cease to be held; the bill only proposing to continue provisions which had previously existed, but had been limited in their duration.

Mr. LIVERMORE said, that perhaps gentlemen were not aware of all the circumstances of this case. This was not a bill to create a distinct or additional judge for the district of New York, nor to create any additional expense; for two districts already existed in the State, to each of which a judge was apportioned by an act passed some years ago, in the enacting of which he believed the gentleman from Georgia had some agency. This was merely to continue in force an act of a temporary nature, a renewal of which had become necessary in consequence of continued disability of one of the judges.

Mr. FORSYTH said the gentleman was mistaken in supposing that he had any agency in passing the act of 1812.

Mr. SPENCER rose to state some facts applying to this case. A law substantially similar to this had existed, but expired on the 4th day of March last. The only question, therefore, was whether it was necessary to continue that law? To prove that it was, he need only say, that unless this bill should pass, there is no court for one of the districts of New York. It was therefore indispensably necessary that the bill should pass. If the gentleman asked for the cause of the frequent legislation on this subject, of which he had complained, it was because the acts heretofore passed in relation to it had been temporary. There was another reason requiring the passage of this bill. By the several acts dividing the State into two districts, &c., a doubt had arisen—inasmuch as the old district in New York had been abolished, and two new ones established in lieu of it—what had become of the business in the old court. One judge had decided that the northern court had no jurisdiction over cases before the old court, even where the seizures had been made within that district. The other judge had, however, gone on and tried the cases, and the parties had acquiesced. Other of those cases were yet pending, in respect to which this bill was extremely important. Mr. S. repeated the remark, that whatever might be the conduct of the judge, it was indispensable that there should be a court, and therefore that this bill should pass, as the former law regulating the proceedings of the courts had expired, and at present no process could issue from them. So much for the features of this bill. Mr. S. said, he did not know whether it was necessary to follow the gentleman from Georgia in the allusions he had made to the conduct of the judge. To remove erroneous impressions, however, which the gentleman's observations might have produced, and to afford information for the gentleman himself, (if he would receive it,) he would remark, that the judge in question had travelled annually, from the North to the South, as the gentleman had stated, but it was for the benefit of his health. That health had been sacrificed to his public duty,

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when, whilst Judge Patterson was sick, and could not attend the courts, the judge who had been referred to had for two years been occupied in doing all the business of the court, and business too of the most laborious and important nature. In the Summer season, said Mr. S., that judge now generally holds the courts; when the Winter commences, he goes to the South, as it is well known the extreme cold of the Northern regions does not permit those afflicted with pulmonary complaints to remain there in safety during the Winter; and by these excursions his health had been greatly benefited, and probably his life preserved. If, however, Mr. S. said, any gentleman thought that the judge had in this or any other respect acted improperly, he hoped that an inquiry would be instituted into his conduct, and that it would be thoroughly investigated. But no suggestion on that head ought to be permitted to arrest the passage of this bill.

The bill was ordered to be engrossed for a third reading.

#### INTERNAL IMPROVEMENT.

The House then again resolved itself into a Committee of the Whole, on the report of the committee on the question of internal improvement.

Mr. CUSHMAN, of New York, said, that, from the course of argument pursued by gentlemen who were unfriendly to the resolution under debate, it became important, in the threshold of his remarks, to endeavor to determine the correct rules of interpretation, by which we were to test the extent of the Constitutional powers of Congress. He could not concur with the honorable gentleman from Virginia (Mr. BARBOUR) in the confined and rigid rule of construction, as illustrated by the example adduced, upon which his argument had proceeded, or in the conclusions to which it had conducted him. In terms, however, it was not particularly objectionable, for he readily subscribed, and he had not heard it denied, that the incidental power must have a natural and obvious relation to the principal power; but the case put in illustration, which the gentleman says exemplifies his idea, distinctly confines implied powers to those indispensably necessary. For what, he asked, could be more indispensably incident to the power of collecting taxes, than that to appoint a collector? Nor could he discover a sanction for the rule thus understood, either in the Constitution itself, in the history of the causes which led to its formation, or from a reference to the variety and magnitude of the national interests, which it was formed to cherish and protect. In such an instrument, precision in anything more than the outline was obviously impracticable; it distinctly marks the form of Government. The division and distribution of powers in the act of legislation are defined. The leading substantive powers are enumerated, and our opponents concede that a multitude of implied powers are vested in Congress, as incident to the specified powers, and indispensable to their execution. But, to prescribe by what acts of le-

gislation the express or implied power should be exercised, had not been attempted. It would, indeed, have been found impracticable; and hence, the enumeration of general powers is followed by the grant of power to make all laws necessary and proper for carrying into execution the specified powers, and all others vested in the General Government.

There was a point of difference, Mr. C. said, between the friends and opponents of the resolution, whenever the subject of the incidental powers of this Government was agitated, at first view apparently trivial, but which had an important influence in the formation and application of any rule of construction. The opponents of the resolution bring into the discussion of this subject views and principles not greatly dissimilar to those which dictated and governed the old Confederation. In that instrument, although formed with a view to a union which should enable the Government to concentrate all the physical power of the nation for defence and protection, the pertinacity with which the States retained the powers of sovereignty evinced that the preservation of that sovereignty unimpaired was an object paramount to every other.

The Constitution, he said, was formed upon a different principle, and for the attainment of higher objects. It was instituted with a single eye to the preservation of freedom, and the happiness of the people. Whatever had been, and yet may be, the force of our attachment to the local Governments, which he hoped and trusted we should never cease to cherish, the convention stripped them of their highest attributes of sovereignty, and concentrated those powers in this Government. And, we could now best obtain a full and just view of the divisions of powers between the General and State Governments, by regarding them as organized at the same period. Although a part of the States had independent powers anterior to the Constitution, nearly half have been formed or added since its adoption. Soon, a large majority of the States will have derived their qualified sovereignty from a relinquishment of the powers of Congress over their territory. When we come to the discussion of this subject, therefore, we are to banish from recollection the jealousies and the reluctance with which part of the States yielded to the demands of national interest and relinquished a portion of the local sovereignty. Compare the constitutions. Look at the objects of the division of power, the sphere of action described for each, to determine the powers possessed by each for effecting the security, the prosperity, and the glory of the nation: not only for the present moment, but for ages to come. It is in the spirit of these views, he contended, they were to form rules to test the extent of implied powers, and to select the means of exerting all our powers.

But, gentlemen on the opposite side have said, that to fix a fair rule of interpretation it is material to resort to the construction put upon the instrument by its framers and by the people at the time of its adoption. Sir, said Mr. C., I will sub-

scribe to their position. And what is the evidence derived from these sources of the extent of implied powers? Look at the instrument. Although he did not lay stress upon the preamble of the Constitution, as containing a grant of power, yet, it was worthy of regard, as comprising a summary of the design of its formation; and viewing it in connexion with all parts of the instrument, his mind was irresistibly led to the conclusion that powers of legislation for national objects, co-extensive with the national exigencies, not only for present but future times, in relation to all the interests which belong to the States, as one community, were designed to be vested in the government of the Union. Had the strict rules, as defined by gentlemen, been applied by the framers to the eighth section of the first act, why in the succeeding section is there an express provision limiting the power, to prohibit the importation of slaves for a specific period; to suspend the writ of habeas corpus; or to create a nobility? To which of the enumerated powers have these an immediate and express relation? Yet, we have the authority of the framers, that, without express restrictions, these powers might have been constitutionally exercised under the general grant. The people, in their scrutiny of the instrument at its adoption, applied far more liberal rules than our opponents prescribe to test the extent of implied powers. The extent of implied powers formed a prominent subject of alarm, of opposition to its adoption. A multitude of amendments, to limit in quantity the implied powers, were proposed; in some instances, to the number of thirty in a single State; and, sir, it is worthy the notice of our opponents, that, among the amendments proposed, was one from the State of New York, to deprive Congress of the power to lay out, construct, and repair roads, under the grant to establish post roads "without the consent of the States." But, governed by the rules of the honorable gentleman, would these propositions have been necessary, or even rational?

Sir, the amendments which have been adopted, afford a practical refutation of the assumption that Congress have no implied powers but such as have an immediate and direct relation to those enumerated. In the sense of our opponents, so recondite are the implied powers which these amendments qualify or prohibit, that it is difficult, if not impracticable, to decide to which of the enumerated powers they were incident. Take the first. Under what express power could we have enacted laws prohibiting the free exercise of religious sentiment? No one of the amendments prescribes a new rule of interpretation. Qualifying or abridging incidental powers merely, these are so many proofs of their existence, their necessity, and extent, generally. He knew reliance had been placed on the 10th amendment by the friends of the limited rule, as analogous to the 2d article of the Confederation. What is its history? An abortive attempt was made in the convention to incorporate the second article of the Confederation in the Constitution. On its adoption, five States recommended an amendment, containing,

in substance, its restrictions. The subject again came under solemn deliberation in the first Congress. The 10th amendment, without impairing the vigor or limiting the extent of delegated powers, either express or implied, was proposed. In both Houses an amendment was attempted, limiting the powers of the Constitution to those "expressly" delegated, and the proposition was discarded by large majorities. The 10th amendment thus leaves implied delegated powers, precisely where it found them.

If these strict confined rules of interpretation are applied to test the constitutionality of the laws enacted by the first Congress, and the general course of legislation down to the present time, the history of our legislation would be a record of continued usurpation upon the rights of the States. For, in selecting the means to carry into effect the powers of the Constitution, whenever the object of legislation has been committed to its charge, Congress have exercised a power commensurate to the end; with no other restraint upon the means, than a regard to the undoubted powers of the State governments, and the personal rights of the citizen interposed. This they have prescribed as the rule of construction, drawn from the Constitution itself.

Upon these principles of construction, under the first administration, in aid of the fiscal interests of the Government, in the first Congress, a National Bank was established, which has again been deliberately re-established. In aid of the agricultural interests of the nation, and to protect the Western States from vexatious interruptions in the export of their products, a territory was purchased at the expense of fifteen millions, equal in extent to the original States. Gentlemen shrunk from the force of this precedent, and referred the act to the treaty power. But, whether acquired by treaty or legislation, was immaterial. Congress provided the means, and gave the act all its effect. Guided by the same policy, while one application of revenue favored the interests of agriculture, by means of onerous protecting duties, imposed, not for purposes of revenue, but prohibition, Congress had exerted the power to create and establish manufactures. He might marshal a host more, but these would suffice. They were strictly implied powers, having direct relation to no specific delegated powers. Yet, their existence was acknowledged, and their exercise required by the highest national interests.

But opposed, as the strict rules of interpretation advanced by his opponents were, by evidence furnished in the Constitution itself, by a reference to the great design of its formation, and by the general scope of our former policy, he was not confined to this view of the subject alone to sustain the resolution under debate. A consistent and fair construction of the grant in the third paragraph of the 8th section of article 1st, he contended, fully authorized the exercise of the power. What is the grant? "Congress shall have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." The word regulate being

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used to confer the whole power conferred over each of these subjects of legislation, its force being necessarily the same throughout the clause, to determine the extent of our powers and duties in one case, will establish the rule for each. We recur to the design of the grant, to the intention of the framers. Take the first subject named—foreign commerce. Is it denied that the whole power of legislating concerning it, was designed to be vested in Congress? And how has the power to regulate foreign commerce been uniformly exercised? He answered, without fear of contradiction, by a liberal use of every means usual among commercial Powers; in the use of revenue, by purchase of soil, and by bounties, we have steadily pressed forward to create, encourage, and extend it. No measures have been neglected, no expedient omitted, in the sagacity of Government to discern, and within the means of fair legislation to effect, for its interests. He would give one or two cases in illustration: the navigation act of the last session is an exercise of the power to encourage commerce through the medium of direct aid and exclusive privileges to American seamen. The aid is as real and effectual as if bestowed in the shape of direct bounty. To promote the interests of commerce, Congress has made expensive provision for the aid of disabled seamen in the merchant service, and liberally applied revenue for the establishment and support of marine hospitals. In exercise of the same power, we have established, and continue to support, throughout the coast, light-houses and beacons, at an enormous annual expense. To encourage the fisheries, by various acts, Congress give a clear bounty of four dollars per ton to the owners and seamen of vessels in this employ, besides a direct bounty on fish exported. This policy commenced in 1794, was sanctioned by the last Congress; and by a late Treasury report, the direct aid to this single employment is seventy thousand dollars annually. In fine, the whole course of legislation shows an uniform understanding of the extent of our powers concerning foreign commerce, and accords with the construction which the framers put upon the word regulate. Under it, we have all ordinary powers of legislation for the various interests of commerce; limited only, in their exercise, by the sound discretion of the Legislature. Equally broad has been the power exercised in relation to the Indian trade, under the power to regulate it. Here Congress have exerted an exclusive control, and, when productive, monopolized the whole profits of this branch of commerce—surely, with no design to usurp power, but from strong convictions of duty. Pursuing the course marked out by the Congress of the Confederation, this Government has applied the national revenues to erect trading-houses, to organize and maintain an expensive agency department, and finally appropriated from the Treasury three hundred thousand dollars for a fund to conduct and sustain an Indian commerce. So far from questioning the Constitutionality of the various acts to which he had referred, it had been

expressly admitted by an honorable member, (Mr. A. SMYTH,) in regard to most of them, in the course of the debate. In relation to foreign commerce and Indian trade, therefore, the construction for which he had contended was sustained. Allow the same power under the word regulate, as connected with commerce between the States, which it imparts to aid foreign commerce and Indian trade, and the point, namely, that the Constitution confers on Congress the power to legislate in the use of the ordinary means to promote and encourage commerce between the States, is established. If, then, the natural, usual, and efficient means, to aid and facilitate this internal commerce, be an expenditure of revenue for the construction of roads and canals, which he understood was conceded, these means we had the Constitutional power to use, if the exercise of the power did not obviously trench upon the rights of the local sovereignties.

He now came to consider whether the rights of State sovereignties interposed any Constitutional impediment to the exercise of the power, in the manner proposed in the resolution. Here the objections of gentlemen had been arranged under two positions, which he would attempt to examine. The one was, that this power could not exist in Congress, to be exercised with the assent of the States; the other, that its independent exercise would be a direct violation of the sovereignty of the States.

Although he held that the power was unqualified, and that the assent of the States was unnecessary to its exercise, the necessity of the assent of the States did not disprove the existence of the power. He conceded that the Constitution could be amended only in the mode prescribed by three-fourths of the States, and that the assent of a State would not authorize the exercise of an unconstitutional power. The inference, however, that the assent of a State could not authorize or give effect to an act of Congress, did not follow, except upon the further assumption that all the powers of Congress could be exercised by the use of all Constitutional means, independent of the States; that their consent would authorize no act, in the exercise of a power, not equally legal without such assent. This assumption was refuted, not only by the uniform tenor of legislative proceedings, but by the letter of the Constitution. By some of its provisions we have powers which can be exercised in a particular mode—only by consent of the States. By others, the consent of a State imparts new powers. Take an instance of each: We have powers of exclusive legislation over our territory; with the consent of the States we exercise the same power in this District. Again, by the consent of two States Congress may abolish the Government of one, and unite them together. Here the effect of consent is to confer a new power, not to authorize the exercise of one already possessed, over a new subject. The States also, said Mr. C., may exercise most important powers by consent of Congress. Thus Maryland, Rhode Island, South Carolina, and Georgia, by consent of Congress, have imposed a

duty upon tonnage. With like consent they may also exercise new powers to keep troops and ships of war in time of peace, enter into compacts with each other, with a foreign Power, and even engage in wars. But to meet this answer, furnished by the Constitution itself, to the objection against the efficacy of assent, we are told, substantially, that every power, unless limited in the terms of the grant, is absolute, and its exercise in every Constitutional mode is dependent alone on the will of its possessor. If, then, I show that Congress possess any implied power, however small, which can be exercised only by consent of a State, the position is overthrown. Sir, our statute book contains numerous acts, the Constitutionality of which cannot be doubted or denied, deriving all their force from the assent of a State. He would particularize: When the Constitution was framed, Congress possessed power to form three States of the Northwest Territory. By consent of Virginia, since obtained, we have acquired the power to form five States of that Territory, which has been, in part, exercised. In the imposition of the late direct tax, the law itself contained important provisions, which changed the mode of raising the revenue, which depended for their power and effect on the consent of the States. He might mention the purchase of the Mississippi Territory, and the consent of Georgia subsequently obtained, which conferred on us the power to erect it into two States instead of one; and to all the laws authorizing the formation of new States, which contain legislative provisions of no force till sanctioned by the assent of those States.

The next, and most important objection to the resolution was, that the independent exercise of the power of Congress would be a direct invasion of the sovereignty of the States. Sir, what is sovereignty, but the power of legislation? Whence is it derived, and where is the sovereignty over the people of the United States vested? Clearly it emanates from the people, and is vested in the National and State Governments. The adoption of the Constitution effected an alteration in the distribution of sovereign power, which had escaped the notice of those who resorted to the Articles of Confederation for the measure of State sovereignty. The Confederation was a compact between distinct and independent sovereigns, the second article of which provided, that each power retained its sovereignty; a treaty of alliance, offensive and defensive; with no other sanction for the fulfilment of its principal stipulations than the sword. A non-compliance with the requisitions of Congress was a violation of compact, for which the community, not the citizen, was answerable. The Constitution had a different origin. Its powers, like those of the State governments, are derived immediately from the people. Assembled in conventions within each State, they recalled from the State governments the portion of the sovereign power necessary to constitute a National Government; conferred upon the General Government powers of legislation over the citizen as well as the State,

for national objects; modified the State governments in the Constitution itself; qualified a portion of their remaining powers; imposed new duties, and left the residue of sovereignty in the States. Thus constituted, the General and State Governments, each with powers of sovereignty, are organized over the same people; the one with legislative powers, which regard the national interests, the other, concerning the local interests over the territories of the Union; the General Government is clothed with exclusive legislative powers, and with a concurrent sovereignty within the limits of the States. But the gentlemen from Virginia (Mr. SMYTH and Mr. BARBOUR) discover an insurmountable objection to the existence of this power in Congress in the possession of a similar power by the State legislatures, within their limits, which might be impaired or defeated. If this objection has force, it equally disproves the existence of any concurrent power whatever; for, at each step in its exercise, collisions might arise, and this evil be realized. Yet, have not both Governments undisputed concurrent powers to execute process, civil and criminal, at the same moment, on the persons and property of the citizen; to use the same highways, to require the attendance, in their several courts, of jurors or witnesses; and is not the same property liable to supply the revenues of each? That collisions may arise, and the powers of our Government be unavoidably suspended by action of the other, is indisputable. This results from the nature of our system. It however disproves the existence of no one concurrent power; and should the imaginary contest, suggested by the gentlemen, arise, the paramount authority of Congress is established by the express letter of the Constitution in article sixth, in all cases of concurrent powers. The existence of concurrent sovereign powers in the General and local Governments over the Union, presented a view of the subject which removed another objection with which the resolutions had been encountered—it was this: That the exercise of the power in question rested upon the right of exclusive jurisdiction. If this distinction be sound, if exclusive sovereignty is necessary to the exercise of the power, then the States have not this power within their respective limits, possessing, as they do, only a limited concurrent sovereignty. But this power in the State government we all assert. Its existence did not, then, depend upon the right of exclusive sovereignty. Nor was the power, Mr. C. said, in any government dependent upon the right of soil, as had been suggested. This would reduce the power to a mere incident to the right of property. Purchase from the citizen would be a prerequisite in its exercise of the power. The right of soil and of sovereignty were not the same. For all public purposes, where necessity requires it, every efficient government has the power to invade the right of soil, and all other property of the citizen, without purchase, but not without equivalent. And this necessity is determined by the Government. This power may as properly be exercised to make roads



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and canals in time of peace, as to demolish a house, form an encampment, and seize provisions in a period of war. In such cases of necessity alone could Government invade the right of property in the citizen. In relation to the right of soil, then, the Governments, being concurrent, were upon the same footing. Each could take the soil, or other property of the citizen, when necessary to the exercise of their powers, and neither could touch it but in such an emergency. He hardly needed to add, that this necessity must be urgent; but, he repeated, the urgency in the one case might as properly be the demand of the public convenience as in the other for the public defence. Sir, in no instance has the power to make roads and canals been expressly granted to a legislature. It is incidental in every government (from the necessity of intercourse between citizens,) and that government may have access to all parts of the State in the exercise of its authority and duties. It was indispensable to any government. Indeed, the fifth amendment expressly recognises and qualifies the right in Congress to take any property of the citizen, when necessary, in providing "that private property shall not be taken for public use without just compensation."

The power in Congress to make roads and canals for national objects, Mr. C. said, was inferrible from another consideration. Have the people intentionally withheld this power from both the General and State Governments? It would hardly be pretended. If it cannot be exercised by the States independently, Congress possess it; or the people, by a sort of treason against their vital interests, have deprived themselves of its benefits. But a State does not, cannot, possess it beyond its limits. The Constitution prohibits compacts between the States, for all purposes, whatever, without consent of Congress. This is not only the spirit, but the letter. It received a practical illustration in the second session of the first Congress in 1790, when a formal application was made to Congress by Virginia and North Carolina, and permission obtained, to enter into a compact to make a canal between Pasquotank and Elizabeth river. Our opponents, said he, contend that the powers and rights of the States are equal. He would show them that in four of the States, under the express recognition of their constitutions, Congress had asserted and exercised the power to make roads within their respective limits, or to apply the national revenue for their internal improvement, not in an isolated case or for a limited period, but generally, and while the Government should endure. Not only had large appropriations been made by law, but the obligation, on our part, to continue those appropriations was irrevocable.

Mr. C. referred to the statute book, and the constitutions of Ohio, Louisiana, Indiana, and Mississippi, in proof of the fact. The act of Congress of 1802, authorizing the people of Ohio to organize a State government, contains propositions to the State Convention, for their free acceptance or rejection, to which is invited the

attention of the Committee. Besides a gift of the invaluable Saline, and an immense tract of land distributed in every township of the State, Congress offered to apply five per cent. of the proceeds of the public lands within the State, to the construction of roads to and through the State, under the exclusive direction of Congress, upon the single condition, that the State stipulated not to tax the lands of purchasers from the United States, for five years after the sale. The convention embraced the offer, and Congress is irrevocably bound to make these internal improvements in Ohio. Shall we be told, that this is a commutation of a tax, which Ohio had a right to raise from the public land? The fact is otherwise. By the fourth article of compact, in the ordinance of 1787, and now in force, relative to the whole Northwest Territory, it is stipulated, that no tax shall be imposed on lands, the property of the United States, by the new States, which may be formed of the Territory. The State, then, had no power to tax the public lands. It was not required, as a condition, to renounce the power. But even had there been a commutation for a tax, which the State had the power to raise from the public land, this, at farthest, would only have authorized an adjustment of the amount. It would have been a power like that exercised in the late act imposing a direct tax, to which he had already referred, authorizing a commutation and a deduction of fifteen per cent. if paid by the State. Did this confer the power on the State to control its use? In the case before the Committee, the use, the application of the fund, to objects of internal improvement, involves, according to the doctrine of our opponents, the exercise of a distinct power. If they admit, that Congress might thus acquire or exercise the power, it is a concession of the argument, and fully sustains the resolution. For, if the power can be acquired by any compact with the State, the question is ended. Congress, then, have the power of constructing roads, in Ohio, by the express provisions of its constitution, and the obligation to exercise it is imperative and irrevocable. If we might appropriate five per cent. of the public lands to that object, which appropriation had already produced upwards of half a million, we might appropriate any larger amount. The power had no limit but in the discretion of Congress.

Passing to Indiana, we find Congress possessed a similar power, as recognised by its constitution. The propositions to Indiana, in the act for her admission into the Union, differed from Ohio only in this: In Indiana two per cent. of the fund bestowed for her improvement, is to be applied by Congress in constructing roads leading to the State, and three per cent. is given, to be applied to construct roads and canals within it, under the direction of its Legislature.

The acts to enable the people of Louisiana and Mississippi to erect State governments, and their constitutions, show, that we possess the same powers in those States. Here Congress presented not even an option to the people. It was among

the indispensable conditions of their admission into the Union, that they renounced the right to tax the public lands of the United States. But, when admitted, three per cent. of the proceeds of the public lands were given, to be applied to internal improvement, part by Congress without, and part by the Legislature within those States. In these cases, there was no pretence of commutation. Congress, without consulting these States, and without the concurrence of their will, has appropriated a fund for their internal improvement.

Are we prepared, he asked, to condemn all these laws of Congress as acts of usurpation? Have these States surrendered their rights? If not, Congress have the power to make like appropriation for the internal improvement of each State. If the constitutionality of these acts is denied by the honorable member, (Mr. BARBOUR,) he is then at issue with himself; and devolves on the Committee the necessity of deciding between his doctrine and his vote, for the Journal shows that the appropriation offered to Indiana for roads and canals, so late as the last session, was sanctioned by the authority of his own name. Thus, then, stands the case. The power of applying the national revenues to construct roads and canals over territory held by cession, is conceded; because here Congress have powers of exclusive legislation. It is limited only by discretion over two-thirds of the surface of the Union; and yet, this is but an implied power, incident to the "power to make needful rules and regulations respecting the territory." To deny Congress the power to extend the benefits, possessed by the States just named, to the older States, is to say, that our powers to supply revenue are unequal over the several States. Nay, more, that the original States conferred on Congress the power to apply the revenues at its discretion to improve their territory and the States, which might be erected within it, all comprising a surface of more than three-fourths of the Union; and expressly debarred themselves from the benefits of like appropriations. After the able, and, he thought, entire refutation of the objections which had been urged to the power of making post and military roads, by the honorable member who had last sat down, he would not detain the Committee on that part of the resolution. Without a reliance on the letter of the Constitution; but, from the admission made, that the power to establish post roads conferred the rights of way, in every necessary direction, the necessity, in the exercise of the right, of making the way passable, he thought, left no substantial difference upon that point. And with regard to military roads, said Mr. C., the only remaining ground of controversy is, whether the right, which, it is conceded, exists as incident to the military power, shall be exercised in time of peace, by preparation to meet the exigencies of war, or delayed till war exists, and to the moment the use of a road is indispensable, before we begin to construct it. But, if the view of the character and extent of our implied powers, and the nature of the sover-

ign authority of Congress over the Union, which he had presented, were in any degree correct, there could be no discrimination between our power in time of peace to construct a road, or a fortification for military defence. If, then, the power of making roads and canals, or appropriating the revenue to that object, is possessed by Congress, he thought, on the question of expediency, it would readily appear that the various national interests required its immediate exercise. It was demanded by the dictates of the policy which requires naval preparation for war in time of peace; by the interests of internal trade, by the claim of the interior and agricultural States, to a full participation of the benefits of the Union, and by the interests of foreign commerce. He would not re-examine the situation of the Atlantic frontier, in a period of war with our commercial rival. The necessity of an inland chain of communication from North to South, its practicability, and the disproportion between the expense and immense benefits, had already been forcibly urged upon the attention of the Committee. The necessity of similar means of communication between the Atlantic and the Lakes, advanced an equal claim to our consideration. During the late war its benefits would have been incalculable. With regard to a minor consideration—the expense, in that short period, the single charge to this Government for transportation from the tide-waters of the Hudson to the several lakes, it was not extravagant to say, exceeded two millions, four-fifths of which would have been saved by a canal transportation.

He had alluded to the fair claims of the interior States. Sir, have they not an equal claim with the navigating States, to the aid of the National Government—to the bounty of the Treasury? Let us not disregard their just demands. The vast fund of the public lands is the common property of the States. By an estimate, founded on the acknowledged extent of our territory, we have now for sale more than sixteen hundred million acres of land susceptible of cultivation. Soon the annual proceeds of sales, already exceeding a million and a half, will amount to many millions. While a portion of this branch of revenue, by a wise policy, is appropriated to improve some sections of the Union, and an amount exceeding the whole is annually applied to the aid of foreign commerce, and in extending the fostering care of Congress to other great interests of the nation; interests connected by indissoluble ties, all conspiring to increase the wealth, strength, and security of the nation; can we, he asked, refuse some aid to internal commerce, thus approximating the interior States to the seaboard? Give them markets—multiply and enhance the value of their products—and finally admit them to a full participation in the benefits of a paternal Government. While desirous to recommend these interests to the encouragement of Congress, he could not concur with the honorable member who immediately preceded him, (the Speaker,) and sustained the resolution with distinguished ability, in the sentiment that the interests of foreign

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commerce have been too fondly cherished—that it had become the spoiled child of the nation. No, said Mr. C., to commerce, invigorated, expanded, and cherished by that genial system of protection and encouragement, which was adopted by the profound practical wisdom of the first Administration, should, in a great degree, be ascribed our unexampled growth, and present proud situation in the rank of nations. Thus sustained, it has filled your Treasury, invigorated agriculture and the seaboard with cities and wealth, and animated every department of active industry, and in less than thirty years raised the nation to an elevated, and, he hoped, a durable greatness. Sir, it is unwise, as it is unnecessary, to decry our commercial policy, that the interests of the interior may attract our care. All interests have equal claims. Our abundant resources are adequate to the aid of all. But let us not be told from another quarter, that the interior sections of the Union, while they ask the aid, have no share in the burdens of Government.

By their consumption of the imports, said Mr. C., the interior States contribute to the very fund which you apply for the interests of foreign commerce. They equally participate in the burdens of war. Nay, sir, when you have recourse to the direct tax, the war tax as it has been termed, apportioned in the ratio of the population, and not the wealth of a State, it falls upon the interior with a severe and unequal pressure. It was, he said, due to candor to remark, that duties on imports being the ordinary sources of revenue, direct encouragement to commerce had become the immediate interest of finance; that agriculture and internal commerce, urging no similar appeal to the interest, had not hitherto sufficiently attracted the attention of Government, or participated in its benefits. To a considerable extent, also, has this nation for years been indirectly contributing to the immediate aid of manufactures. He would not be understood to denounce this policy; far from it. A just regard to the national interests, as well as faith, requires that measures adopted to create should now be continued to sustain them. But the benefits of this branch of national improvements surely were prospective, and in the infancy of manufactures the protecting duties which their interests require, as they enhance the price of the foreign article, and the manufacture operates as a proportionate tax on the consumer, for the immediate encouragement of the manufacturer; therein departing from the exercise of the specific power for raising revenue, and effectually exerting that of establishing manufactures. Have the Constitutional powers here exercised ever been denied? He asked, then, upon what color of pretence could Congress, adhering to that construction of the Constitution which authorizes the indefinite application of revenue to encourage foreign commerce—to create and sustain manufactures—with what appearance of consistency can you withhold like aid to objects of internal improvement, claiming equally the national encouragement, as inseparably allied to the national prosperity? Beyond the benefits of de-

fence, in which all equally participate, what advantage, the interior States emphatically ask, do we derive from the Union? And without a fair equivalent, by what principles of justice are we required longer to sustain a policy, which, for the present, depresses the value of our products and enhances that of the imports, by excluding the foreign merchant, through the medium of tonnage and onerous discriminating duties, from a free competition in our market, making us directly tributary to the interests of commerce and manufactures?

If the interests of internal trade and agriculture demand this aid, from their prominent importance, as objects of national concern, will it be denied that roads and canals are the natural, direct, and necessary means? The commerce of interior States is, through others, to an Atlantic market. The intermediate States are not bound to provide facilities for transportation? Is there no remedy? How important soever, the remote State has no power to effect it. What results? The improvement is made so far only as subverts the interest of the intermediate State, and, when rival interests exist, the property of the remote State is sacrificed.

Sir, I will not trespass upon your time by a repetition of the objects which claim the exercise of this power. They were forcibly presented at the opening of the debate. You have viewed them in detail, estimated their cost, and seen their importance, for purposes of national defence and internal commerce. There are, however, some considerations which invite one or two additional remarks. The importance of an immediate exercise of that power, said Mr. C., is forcibly urged by a recurrence to the condition of our northern frontier. Bounded as we are, in that direction, by a chain of lakes, of equal extent with the Atlantic frontier, with a soil surpassed in fertility by no portion of the Union, and populating as it is with a rapidity unexampled, in a few years the export of a population equal to that of the Union when this Government was instituted, will pass into the northern lakes. Without canal communications between the lakes, the Mississippi, and the rivers of the Atlantic States, the immense export of this section of the Union, embracing more than five States, descends the St. Lawrence. What are the inevitable consequences? The interests of that section, for any beneficial national object, are severed from the Union. The immense value of one-fifth of our commerce is sacrificed not only, but contributes to the ascendancy of England.

Sir, canals are the only permanent remedy. But the evil is not wholly in prospect; it already exists, and is even now keenly felt from another quarter. To what cause do we impute the ruinous condition of our commerce with the British West Indies, which has been so forcibly urged upon our attention by a recent report of a committee? Look at the statement of the export. From Vermont alone, it exceeds a million. From New York, Ohio, and Michigan, it exceeds another. The whole yielding a freight which

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doubles its value in the foreign market. We have not now to learn that the West Indies cannot now subsist but by supplies from the United States. Possessed of our own means, we can forever coerce a trade on principles of perfect reciprocity; but, without canals to attract this produce from Canada to Atlantic channels, we not only give employment to an immense British tonnage, but enable her to subsist her West Indies with our own products, and by her navigation; thus inviting her to exclude us all participation in her colonial trade. Not only are they the carriers of the products of the West, but we are compelled to receive her colonial exports from her own ships. Can this Government, he asked, slumber over this complicated and growing evil? Can we without alarm anticipate the consequences which this state of things will entail upon our revenue, from the facilities of smuggling, at a thousand points? Or the influence it will soon enable England to exert, over the western section of the Union? Sir, shall slight considerations deter us from a prompt application of an effectual remedy? It is perfect; it is within our view; it is already marked by the practical wisdom and lofty enterprise of the State which I have the honor in part to represent; the improvement is already commenced; the canals to unite Erie and Champlain with the Hudson are in successful progress. Mr. C. said he could not refer to this great national undertaking with any ordinary emotion of pleasure. In relation to it, however, he would indulge but the single remark, that, whether viewed in reference to the magnificence of its design, the variety and magnitude of the national interests it is destined to subserve, and the benign influences it will extend over the boundless regions of the West; all conspire to characterize it one of the proudest monuments of national glory, which has been projected by the wisdom or attempted by the power of a State.

The speedy accomplishment of this noble design, demanded alike by the interests of commerce, foreign and internal; of revenues of our Western States, and our western lands; upon the score of justice as well as policy, calls for that liberal aid at our hands, which has hitherto been unsuccessfully solicited. Sir, I trust we do not urge a hopeless appeal to the sagacity of the Eastern States, when we ask their aid in measures to secure the success of improvements, which will enable them effectually to reclaim one branch of their trade from ruin; withdraw from England the commerce in our products, which gives employment to hundreds of her ships, and transfer its profits to our own.

But, said Mr. C., we are told, where doubts of our Constitutional power to legislate are entertained, it is expedient to refer to the people for a grant of the power. He considered this doctrine utterly indefensible. Extraordinary powers indeed would this principle devolve upon a doubting minority. The authority of the Constitution opposed it. What is the Constitutional rule? Legislate, where a majority in each House concur in the expediency and constitutionality of a law.

With this sanction, unless arrested by the President, bills become laws, and, in the teeth of the veto, it is expedient to legislate where two-thirds concur. Again, it is as imperatively our duty to recommend an abridgment as an enlargement of our powers, and far from cause of alarm at the spirit of encroachment on State power, so feelingly deprecated, we know Congress have recommended twelve amendments, to define and abridge their powers. As citizens of the United States, we have a common interest in their independence and power, and a common attachment to their institutions. One branch is dependent for political existence on the legislatures, and the other on the voluntary suffrage of the people. Possessing legislative power by such a tenure, and continually recurring to the people for its continuance, has not early and more recent experience, forcibly demonstrated their controlling powers, and that even an artificial gust of popular indignation can blight and wither our dreaded energies?

If there be a cardinal principle in free Government, it is, that the will of the majority is the supreme law. It is the basis of all legitimate power; it is the foundation of our Constitution. But, once organized, permanency required the form of Government should not be changed without a concurrence of three-fourths of the States. Let us not confound distinctions. This rule is not established for the construction of the instrument, or designed to govern in acts of legislation. It is the rule of amendment only. As the immediate guardians of the powers of the Constitution, we are bound, by our oaths, to support it in its vigor and power. If a majority believe we have the power, would it not be as just a test of its existence, to apply for an amendment to divest Congress of the power to make roads and canals, as for a grant of the power?

Sir, we have heard of the admirable facilities provided to remedy defects in the Constitution by amendments. What is this boasted remedy, so often attempted and so often defeated? Two-thirds of both Houses concurring that a power is desirable and not possessed, can recommend an amendment, and three-fourths of the States have the power to adopt it. And are gentlemen prepared to resort to this test, to determine what laws we may enact, what means we may use, in the exercise of our Constitutional powers? But even the power of three-fourths of the people to amend the Constitution is theoretical merely. A majority in six States, all containing a population less than 700,000, a population unequal to that of either of three single States, not a twelfth of the whole, control the construction of powers, and prevent an amendment. Upon a question like this, should we not foresee that considerations of local rather than national interest would prevail; that it might be resolved into a cold calculation of relative benefits? Upon a question like this, can you look for that spirit of deference and concession in the absence of that necessity which, with all its coercive energy, united barely a majority of the people on the adoption of the Constitution.

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Upon these considerations, however, he would forbear to dwell. An application for an amendment, as had been recommended, he should regard as a virtual surrender of the power. In a case of much doubt, he could not reconcile it to a sense of the duty of Congress, considered as the immediate guardians of the Constitution, to submit to a course in relation to any of its powers, which would jeopardize their existence. But, in the present case, with an entire conviction of the existence of the power, and believing that its exercise was demanded by a regard to the highest interests of the nation, he hoped the resolution would be adopted.

Mr. AUSTIN, of Virginia, said he felt somewhat embarrassed, at this late hour of the day, to attempt to deliver his sentiments upon the subject now under consideration; but, some few days since, it would be recollected, the honorable Speaker, one of the noble sons of Virginia, whom she was always proud to acknowledge, had invited, or rather challenged, her representation to meet him in this contest. He said, weak as she might be, the Old Dominion was always ready and willing to furnish her quota, although she might be vanquished in the combat. Under these circumstances, he was compelled to engage in the unequal contest. It appeared to him it had become somewhat fashionable to enter a protest against those principles in which we differ; and the honorable Speaker had entered his protest against the principles of construction which had been contended for by those opposed to the resolution now under consideration. Mr. A. said he, in like manner, would beg leave to enter his humble protest against that liberal and expanded construction of the Constitution which had been contended for by the honorable Speaker. It had been said by him that he protested against this water-gruel system of construction; that those who construed it in this way were unfit for politicians. Mr. A. said that, in whatever light, as a politician, he might be viewed, it was not material to him; but he would remind the honorable Speaker that the principles of construction, limited and water-gruel as they might be, which were contended for by those opposed to the resolution, were such as had conducted us through two wars in safety, peace, and harmony. Mr. A. said, we have been told, that by adopting this liberal and expanded construction of the Constitution, by giving to the General Government this power of making roads and canals, &c. will produce union, peace, and tranquillity through these United States; and this seemed to be too generally admitted; but he thought very differently, and would take this occasion to say that he denied the whole theory and its ideal consequences. He said he would call the attention of the Committee to the peace, union, and tranquillity which now existed between the States; that they were content; that the moment Congress assumes this power of internal improvement, you throw out the apple of discord among the States; they will then begin to scramble, and quarrel who shall get the most, and where shall be the places of this internal improvement;

and, instead of producing this fancied union, peace, and tranquillity, so eloquently described by gentlemen, it would turn out to be an internal division and commotion, instead of internal improvement.

The honorable Speaker had said, the great objects of the Constitution were union, peace, and consolidation, but did not thereby mean to use the word consolidation in an alarming or offensive sense. He too (Mr. A.) thought the objects of the Constitution were peace and union; but it was not material in what sense the honorable Speaker used the word consolidation, since it appeared to Mr. A. that the consequences resulting from the honorable gentleman's construction would lead to consolidation and a prostration of State rights.

We had been told by the honorable Speaker that the Constitution was made not merely for a few millions of people, but intended to embrace perhaps fifty millions or more, and that it was calculated to answer these great objects. He (Mr. A.) would agree that the Constitution was wisely framed to answer all these great objects, and to last under all times and circumstances, if we resort to the Constitution for our guide. And, although he could not extend his views to those ages, yet if we are to expand its construction according to the extended views which some gentlemen take of it, he thought it could no longer be considered as our guide; we are left to the whim, and caprice, and elevated views which some gentlemen consider as beneficial to attain their ideas of national grandeur and greatness. In pursuing this fancied object, he would remark that it did seem to him that some gentlemen had taken such an eagle flight that they had soared entirely out of view of the Constitution, and forgotten it; and, being accustomed to power, had considered themselves invested with all authority. He said that the powers now claimed to be in the General Government, by the resolution on your table, would not produce the beneficial effects of union and tranquillity, but discord in the States and among the people, and he would advert to a part of the honorable Speaker's argument to prove this conclusion. The honorable Speaker had said that the Eastern States had long enjoyed the benefits of commerce; that it was now time for the Western people to have their share of the benefits of the Government, in having their country improved by roads and canals. If the Western people begin thus early to complain, so soon as we begin this division of the funds of the nation, would it not excite State bickerings, and tend to disunion, instead of union? We were told by the honorable Speaker that agriculture had been long taxed for the benefit of commerce, and that now she too in her turn has a right to a portion of this revenue to be laid out in roads and canals; but that this small aid is denied her, even when he offers to give her, the old lady, a Virginia cloth gown. Sir, said Mr. A., it would seem that the old lady has not been quite so well dressed and decorated as her noble son of the West would wish her; and she not being accustomed to these

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decorations, it is proposed to stimulate, and aid her with a present, a Virginia cloth gown, as best suited to her declining age and humble views. It would seem, at first view, that this present would be acceptable to her; but when she inquires the reasons why this present is made her, she is at first informed, it is from pure affection. Well, and is nothing in return expected? She is answered, nothing that will injure you in the least; only a small matter is asked as a compensation for this Virginia cloth dress. And what is that, my son? Nothing more than to permit me to make a few roads and canals through your farm, to be made and used at my discretion, as I may think proper and right. The old lady is startled at this proposal, that her son cannot wait till her death for full enjoyment of her property, but for this present she is to release a part of her soil and the jurisdiction over it.

The honorable Speaker, in construing the Constitution, had resorted to various parts of it to show the sense in which the word "establish" was used. He had cited, "to establish an uniform rule of naturalization." To which he, Mr. A., would answer, that the only sense in which the word "establish" was there used, was to give to Congress the power to make an uniform rule upon that subject, but, that a further power from this word, as there used, could not be derived; as, for example, could it be contended, under the power to establish an uniform rule of naturalization, that Congress would have the right to seize the person of the alien? Could it be contended, that, under the power to establish a judiciary, as mentioned by the honorable Speaker, a right was conveyed to seize and take possession of all the court-houses and jails belonging to the States, as an incidental or implied power, resulting from the power to establish a Judiciary? He apprehended not; and yet these consequences would result, if the construction and reasoning be applied to them which had been to the power to establish post offices and post roads.

We were told by the honorable Speaker that the surrender of Detroit would have been avoided by good roads; he, Mr. A., had always listened to that gentleman with great pleasure, because his statements and arguments had given him considerable information. He now learned, for the first time, that the surrender of Detroit was occasioned by bad roads; he had, heretofore, been led to believe that that disaster was owing to the misconduct of the commanding officer, either to his misfeasance, malfeasance, or nonfeasance; he had even understood that the officer was arrested and tried for that misconduct, and that he had been found guilty by a regular tribunal; that, if the disaster had happened in consequence of the badness of the roads, it would have been unjust in that tribunal to have condemned the officer for the surrender of a post, which must have happened, not from any fault in the officer, but from the badness of the roads, over which he could have had no control, and for which he, in justice, ought not to have been accountable.

The honorable Speaker has said that the dis-

graceful scene which took place at Washington, during the war, was on account of not having a military road. Mr. A. said it was an easy matter now to pack all the disasters which happened during the war upon the roads, and which properly belonged to the persons who managed and commanded at the particular places; but would the facts and circumstances warrant such a deduction? He apprehended not; he had never understood that, at Washington, there was any want of military stores, or other munitions of war, which could have occasioned the disgrace, but, on the contrary, he had supposed there was an abundance of the materials of defence, if they had been properly used.

As a further argument in favor of this new system, we have been told of the great expenditures which happened during the war, in the transportation of military stores, &c., in consequence of the badness of roads, and for the want of military roads. He would beg gentlemen to consider that, when all their fancied plans were accomplished, and their roads made, if the enemy, in another war, should not choose to attack them at the same point, that there will exist the same necessity for new military roads, and, of course, we must begin a new system of roads and expenditures at the close of every war.

Sir, said Mr. A., the honorable Speaker has, in concluding his remarks, contended that the construction of the power necessary for the general purposes of the Constitution, ought to be upon large and extended views for sixty millions of people. He would beg leave to differ with him, in that liberal large and extended view of the Constitution; and although, as a politician, he could not extend his views to those times—the process of reasoning which governed him, in construing that instrument, were drawn from more humble sources—he would adopt a mode of construction to the Constitution which would enable it to survive, and be transmitted to them unimpaired.

Sir, said Mr. A., on this occasion we have had much learning displayed, and quotations from the opinions of others; the opinions of Mr. Jefferson, Mr. Madison, and the present Chief Magistrate, and others, in relation to the construction of this instrument. He said he had consulted no authority but the Constitution itself, and the facts and circumstances necessarily incident to it, as his guide; that, although much respect was due to these great men for their services, their wisdom, and their talents, yet their opinions could form no rule for his conscience upon the construction of the Constitution. That it would be recollected by the honorable Speaker, that before he, Mr. A., was permitted to take his seat in this House, he had administered an oath to him on the Holy Evangelists, to support the Constitution. For the rectitude of the opinion which he was bound to give upon this Constitutional question, he was accountable to God and his country, and which he should attempt to perform according to his best judgment. He said that our Government differed from all the govern-



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ments of ancient times; that we are bound by written rules, and legislate by them, while those considered themselves as invested with the sovereign authority of the people; that in the construction of this written instrument (the power under which we act) we must examine it by its parts and its context; that if any power under this instrument be claimed, it must be shown in the Constitution to be expressly granted; that, if it be not expressly granted, but dubious, it must then be an implied power, necessary to the grant of the express power. Taking these rules for his guide, he should proceed to consider this Constitution as a power of attorney, executed by all the States in solemn form, and should, therefore, (if it might not be amiss in comparing small things to great ones) take the same mode and apply the same principles of construction to the Constitution, and be governed in the same way, that he would, when he resorted to a power of attorney, under which he acted, to ascertain the power and authority which the grantor had delegated to him to execute for him.

The report of the committee, then, has founded this right to make and construct post roads, upon that part of the Constitution which is to be found under the eighth section of the first article, in these words: "to establish post offices and post roads;" and the committee, by way of establishing the position taken by them, have proceeded to say what is admitted on all hands to be within this Constitutional provision; they have taken, and assumed for admitted, the very subject in controversy; it is this very matter which we contest; we are at issue upon this very point; and he felt some consolation we had arrived at it, as it had been seen that the advocates of this power had differed among themselves as to the grounds upon which it should be claimed; but, at length, they had made out their declaration, and set forth their claim of power, which he should attempt to oppose. The committee have resorted to various acts of Congress as precedents, and various acts of its Executive Magistrates, to show this construction and admission, contended for by them. His honorable colleague (Mr. BARBOUR) had given a full answer to these precedents; and he would only add that, in courts of justice, precedents were not authority, unless they had been decided upon the principle in contest; that when the judgment or the mind had never been called on to act, it could not be said to be precedent; the courts themselves would disregard such precedents, and much more would the Legislature, under like circumstances. He would then call on gentlemen to say whether, in any solitary instance of these precedents, relied on by them, whether legislative or executive, the question of constitutionality had ever been stirred? he knew of no instance himself. Then, said he, shall the mere inadvertent acts, either of the Legislature or Executive, be a rule to guide us in the construction of this instrument, under which the power is claimed? He thought these precedents ought not to be resorted to, and would therefore only notice one of them, the road from Platts-

burg to Sackett's Harbor, which seemed to be much spoken of and relied on; and he would inquire, what were the circumstances? There were troops stationed at these points; there was a road already established from one place to the other, by State authority; it became necessary for the transportation of military stores, &c., from one place to the other; the troops were stationed there, and idle; and they had been directed by the President to work on the road, which had been done. The President had claimed no jurisdiction over the road; he had not substantially interfered with any State or individual authority; and if he were to claim authority or jurisdiction over the road, Mr. A. would not hesitate to say, that it was an assumption of power, and unconstitutional; but nothing of this kind had been done, and therefore could form no precedent or obligation on us; that, whenever the Executive Magistrates had been officially called on to decide upon this Constitutional question, they had decided that the Constitution gave no such right.

But, sir, it is said, in the report of the committee, that we have the right to make and construct post and military roads, by the assent of the States through which they pass. This position he could not admit. The powers granted, and intended to be granted, by the Constitution, were absolute powers; they were intended to be given, free of any condition, restriction, or limitation, and to be so used under the Constitution; it could not, therefore, he thought, be contended that, for any power vested in Congress under the Constitution, they should be compelled to ask the assent of the States to legalize this power; to exercise it in this way, would be to shackle the powers of the General Government. Thus, do we ever pass laws upon condition that a State may agree, or not, to legislate upon any subject, for the fulfilment of which we are to ask the assent of the States. He thought we could not, nor ought we to derive powers from the States in this way. If we were about to declare war, should we pass the law upon condition that the State of Virginia, or any other State, gives her assent? If so, it might follow that the State would refuse her assent, and remain at peace, and be exempt from all the expenses attendant on the war, as well as the exposure of her men. No, sir; let us not legislate in this way; let us not derive powers in this way, by holding out this bait of assent to the States. If we have the power, let us assert it directly, and not lull them into security. By thus meeting the question directly, the States will examine for themselves, and be more prepared and composed to meet such a state of things; no additional argument could, therefore, be drawn from exercising this power by the assent of the States, but, on the contrary, seemed to him to be a conclusive reasoning to show, that we cannot derive a power to legislate in this way. But if, as is contended by gentlemen in the argument, we have the absolute right, under the Constitution, to construct post roads, let us see to what extent this principle of reasoning and construction will lead us. If then, Congress possess the power,

under the Constitution, to construct and claim jurisdiction over post roads, they have the same power to construct, establish, and make post offices. If we possess the power over one post road, we have the power over all the post roads. Thus, we find ourselves, by this construction of the Constitution, in possession of all the post roads in the United States; and we are equally in possession and jurisdiction of all the post offices or houses where the post office is established; and we are told there are about four thousand post offices.

Thus, sir, by this mode of construing our Constitutional power, it will lead us into the possession of the soil over which all these roads pass, and into the possession of all the post houses, and lots on which they are built. It would then be in the power of the Postmaster General, who has the right of establishing post offices, to take possession of any house or lot of land, in town or country, for the post office, and that, contrary to the will of the owner, as being an incidental power necessary to the Post Office Establishment. And, while upon this subject, he would notice a remark of the honorable Speaker, who said that the General Government had a right to rent, hire, or build, a post office; he would not discuss whether they might not hire a house, but he would deny they had any right to build and acquire property; and if it were intended to use this power as an incidental power or right, in opposition to the rights of individuals or States, to wit: that they were compellable to yield to this power or right, he should deny it in any way in which it may be claimed or applied. His honorable colleague, (Mr. B. SMITH,) while speaking on the subject, in describing the great benefits resulting from this imaginary system of internal improvements, had told us that that the roads and canals might be compared to the veins, arteries, and sinews, of the human body—that they were the political veins, arteries, and sinews, of the General Government, or body politic; but he hoped his honorable colleague would also recollect, that they were the political veins, arteries, and sinews of the State governments, and that they belonged to the States before and since the adoption of the Constitution, and that they had always been in the possession and enjoyment of them ever since, and it would be now too sudden a transfer of all this political life, and blood, and strength, to the General Government, by a mere constructive incidental power, which he believed the Constitution would not warrant; nor did he think the framers of the Constitution, or the States, could ever have intended to convey. He would therefore beg gentlemen seriously to reflect what extensive powers, jurisdiction, and soil, we were about to assume to ourselves over the several States; whether it will be so likely to produce union and peace, as they imagine; and whether it will not tend to a consolidation of the powers and rights of the State governments in that great power of the General Government, which may overturn all the rest, contrary to the plain import of the Constitution, which, he thought, could only

mean a mere description of the post route and the place for the office.

But, it has been said, we have a right to establish military roads in time of war; he would deny that, under the Constitution, any such right was conveyed—it was not necessary to convey such a right; for, if it became necessary in time of war to cut a military road, it was only a mere act of necessity, a mere trespass, to be excused by the necessity of the occasion, and remuneration for the act; it arose by the laws of necessity or self-defence, and could confer no right. Every individual has a right, by the laws of nature, to defend himself—he does not acquire this right by Constitutional law, or by legislative aid, but it is incident to the law of self-preservation; thus, if one man assaults another, and the assailant is killed by the other in his defence, the act is excused, because, by the laws of self-preservation, he was forced to commit the act. But, it would not follow, that he should be excused in killing any other man, who should approach him peaceably. But, the reasoning of the committee, and the arguments of gentlemen, go much further; they say, in time of war we have a right to cut military roads, as a necessary power implied from the power of making war, and they extend this power a little further in time of peace. Thus, in time of war, by force, you cut a military road, and, in time of peace, you claim this road as belonging to you. The act, therefore, in time of war, which is nothing more or less than a trespass, is converted, in time of peace, to give you jurisdiction and the right of soil; if there be such a magic power in the Army, that, whatever they touch in time of war gives the Government right and jurisdiction in time of peace, it would follow that rights in this Government could be acquired by conquest; and it might not be surprising, after another war, that the Government had a right to claim all the roads along which troops had at any time marched during the war. He would illustrate this construction of the committee, by an example mentioned by his honorable colleague, (Mr. BARBOUR,) that, in time of war, to defend our army, or to annoy our enemy, it might be necessary to prostrate the house of an individual, and, in time of peace, he should think it just and right to pay the individual for this trespass, this damage done to his property; but, according to the mode of construction adopted in relation to military roads, the Government, instead of paying for the injury, would be vested with the right of soil on which the house stood, because it became necessary in time of war to prostrate it. In time of war, you cut a road in Canada, (and he had no doubt that some had been cut during the late war,) it followed, then, according to those principles of construction, that we had a right to hold it in time of peace. But, it might be said, we have no claim to any of the lands of Canada, and, he thought, it might be said with great truth, that we have no claim upon the lands of the States—they have not conveyed to us any such rights or powers—each State is sovereign, distinct, and independent, and exercises all

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the acts of sovereignty within it, in the same manner that Canada does, and is only bound to each other by the Constitution, which may be considered as a league or confederation between them.

If the report of the committee, and the arguments of gentlemen, be right in giving the Government this power of making post roads, post offices, and military roads, it will be necessary to point out the way in which States or individuals are to be deprived of their property, and paid for their soil taken for these purposes, as was remarked by his honorable colleague, (A. SMITH.) The States have been in the regular possession and exercise of this right; they can issue their writs of *ad quod damnum*, to condemn the property of individuals; they have their officers and jury to execute these proceedings: but he would ask gentlemen upon what part of the Constitution they could found this right? An honorable gentleman from New York, (Mr. CUSHMAN,) if he, Mr. A., understood that part of his argument, seemed to derive power from that part of the Constitution in the fifth article of the amendments, which declared, "nor shall private property be taken for public use without just compensation;" he, Mr. A., could not construe that part of the Constitution in such a way as that the Government might thereby acquire title to the soil. But he understood the plain meaning of it to be, and have allusion to those cases in time of war, in which the property of an individual had been destroyed for public purposes, or taken temporarily for public use, many cases of which might be imagined. He said, that according to the powers now claimed for the General Government, a post road or a military road may be wanted through a man's farm; his house may be wanted for a post office; can the Government, against the will of the individual, or by his consent, carve out any mode under the Constitution, by jury or otherwise, so as to ascertain the value of the soil, and acquire title? He did not think they could; as being very important rights, vested in the people and in the States; possessed, known and exercised by them. He would ask if these claimed powers and rights, on the part of the General Government, were no encroachment on State rights—on individual rights? thus to take possession of their soil, level mountains, remove obstructions, make bridges, &c. These grants he thought, could not be found or implied in the Constitution. But his honorable colleague (Mr. SMITH) had contended, that the making post and military roads, and digging canals, was no exercise of jurisdiction. Mr. A. said, for his part, he did not know, nor could he conceive, what was an exercise of jurisdiction, if this were not. If his neighbor could, at his will and pleasure, make roads and cut canals through his farm, and use them when he pleased, he, Mr. A., should conceive it to be exercising jurisdiction, if his freehold were thus invaded.

Mr. Chairman, said Mr. A., if these powers belong to the General Government, you must make a new set of judges, justices, conservators of peace, officers, &c., to be scattered along all

these post and military roads, through the United States, with power to remove obstructions, to keep them in repair, and to be paid salaries as a matter of course; and it may become necessary, hereafter, to lay a tax to pave all the roads, and to keep them in repair. But it had been said, we need not fear these things; we need not fear to trust Congress; that in the organization of our Government we were secure; that the people have a right to turn us out once in two years; but if this be a sufficient security, he would ask why it was necessary to have had a Constitution, with certain defined powers? Why not have relied upon Congress, without limitation? depending entirely upon this check of the people, upon re-election?

But it is said that this measure will be beneficial to the States; that we can improve, beautify and adorn them; that they are poor, and not able to perform these great objects. He thought the States were able to perform whatever might be necessary, and that they could manage better themselves than we could for them. That if they did not improve so highly as we thought they ought, they were doing for themselves; and States as well as individuals took a pride in governing their own estates, to suit their own taste, and preferred to retain their own authority.

Sir, suppose we assume to ourselves this power, and according to our plans of internal improvement, and national greatness, we lay off this Union on a plan or scheme somewhat like a map of this city, in which the streets lead to and from the Capitol and President's house; with fine paved roads from this point, for honorable gentlemen to travel to and from their homes to Congress, and some twenty or thirty years hence your Seat of Government is removed to the West, say to Louisville or elsewhere; and this is not impossible: what then, sir, will become of all your national improvements, and benefits? Must you not begin again, and have a new set of roads to carry you to this new Seat of Government? Another consequence will probably arise from this national system; it will no doubt be the object of those, who may be intrusted with the execution of this great national scheme, to extend their views upon a national scale; they may, in pursuing this plan, disregard the commerce and the convenience of a city or State, because they are going upon a large national plan; they may wish to concentrate, and make a kind of national commerce, or in other words, to have everything upon a large scale, and overlook the petty interest of a State. It commonly has been and may be the object and the interest of a State, to concentrate its commerce at its capital, or elsewhere, to suit its own interest and convenience; he would take for example the cities of Philadelphia, Baltimore, and Richmond; the policy of whose States was to concentrate the commerce of each at those places; but the General Government may so direct their national plans, as to draw the trade, by their roads and canals, to a different place; and thereby defeat the object and the interest of the State, the people and the commercial town.

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The honorable chairman of the committee who made this report, had, in opening this subject, called our attention to the large expenditures which had been laid out on the Capitol and other public buildings, and had reminded us of the greater utility and benefit to the public, in laying out the funds of the nation in internal improvement. He had informed us that, by a report of Mr. Gallatin, a few millions of dollars would be sufficient to effect most of the objects of these national canals. He hoped the honorable gentleman would recollect, that, whenever a public building was commenced, a report was commonly made of the sum necessary to complete it; but that it was found on experiment, that this sum was annually wanted, till it amounted at last to five times as much as was originally contemplated; so he apprehended in relation to Mr. Gallatin's report—that after we had once begun, we must go on, and appropriate, year after year, till we spend the treasures of the nation upon these projects; that it was fitting up offices for those undertakers for life as it were; that it was extending the patronage and influence of the Government much more than it had been, and much further than he had any wish to see it extended.

But we had been told, as a reason for adopting this system, that most of our revenues arise from commerce, and that they belong exclusively to the General Government, and that we have now surplus money in the Treasury. In answer to which he would state, that we had adopted a new system of government, which in practice he wished to see extended and cherished; that he hoped it would continue; that we had a debt of about one hundred millions of dollars still to pay; that he did not wish this Government to pursue the European system, in permitting this debt always to hang over us; but he wished us to manage like prudent farmers, and those were the best who conducted themselves most advantageously, in keeping themselves clear of debt. Let us, like them, pay off our national debt, get even with the world, and be new in our practice as we are in theory; and, should a period ever arrive, when we have surplus money in the Treasury, there would then be found no difficulty among the States, in amending the Constitution so as to enable each State to obtain its portion of this fund, or to dispose of it as experience may suggest.

Sir, said Mr. A., it is said in the report of the committee, that the transportation of the mail will be entirely dependent on the will of the State governments, unless the power there claimed be vested in the General Government. The very idea and intention of the General Government is here explained, that, while on the one hand it is merely contended that this power may be exercised, by the assent of the States, it is evidently seen that the power is wished to be enjoyed absolutely and independent of State authority. No inconvenience has hitherto been felt, nor can it be likely that any will result, by permitting the jurisdiction over the soil to remain with the State governments; it seemed to him, therefore, that it was a mere struggle in Congress to obtain

power. The roads, he said, leading through the States are the public property of the States, they cannot therefore be stopped, because they are wanted for the citizens of the State; they have been, in most instances, the property of the citizens, and have been condemned by State authority for the roads; they are free as ways for all the citizens of their own States, as well as for every citizen of the United States; the citizens cannot therefore be stopped, by any discrimination of the persons who are to pass them, because they are free for all persons; the mail, therefore, of the United States could not be impeded, unless the particular State were in a state of insurrection, and used force to stop the mail; and if she were in this state of insurrection, the Constitution has provided a remedy, and given power to the General Government to quell the insurrection; and therefore it cannot be a necessary, incidental, or implied power in Congress, to have or claim the territorial rights of soil over the roads of the States. There is such a thing as a right of way in one man, while the soil belongs to another; the person thus having the right of way, has no claim to the right of soil; all the citizens of the State, and of the United States, have a right of way along the established roads of each State; but neither the citizen nor the Congress has the right of soil, because that of right belongs to the State, having been condemned or appropriated for that purpose; whenever therefore Congress shall claim a right of way, different from any other citizen; he would deny that right. But, it is said, the road may cease, or be changed at the will of the State or by the courts of the States, without the assent of Congress; that is true, and so he contended it ought to be. Who is most interested in the road? is it the State or the citizens of the State, or Congress? Is not the road for their benefit? is it not for their convenience, that it is established as a road? is it not on their application to Congress declared a post road? does Congress designate the route for the benefit of the Government, or for the people, who make the application to Congress? Certainly it is established at the instance and for the benefit of the people, and whenever the people find it to their interest or convenience to cease or change the road, the State possesses the right and authority to alter, change, or amend it.

The honorable SPEAKER had said, "A mere county court change a road!" He would answer, yes, "a mere county court." And pray, said Mr. A., what are they? Are they not composed of the same materials as we are? May they not possess as much information as we do? He would say they knew as much about their rights as we did; and that whenever, in the opinion of the people of a State, a road ceases to be a road of public utility, he would ask, should the States and the courts of the States possess the power to abolish the road, or change it to suit their convenience; or ought this power to be vested in Congress, because it had been used as a post road? He would say that a fair construction of the Constitution, as well as reason, would decide that it

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ought to belong to the States and to the courts of the States. Could it be reasonably contended, that, for an alteration of one of these roads, the people from Mississippi, Georgia, and other distant States, are to become humble petitioners to Congress, to use their territory in their own way? He thought not. He thought the local authorities were much better judges when and where there should be new roads, or former ones altered, than Congress could be. He said it is beneficial to the people, and therefore they ask your mails to pass their State roads; it is beneficial to the General Government, when the States or people thus ask and permit your mails to pass, and for which the one pays and the other receives a revenue; but they will not, in this mere passage, give you a right of jurisdiction and soil.

Mr. A. said he would now proceed to examine another part of the subject, in relation to the power of making canals; and much of the reasoning in relation to the roads would be applicable to this subject; but, as the power was claimed from another clause in the Constitution, it might be necessary to take a slight view of it.

The right then claimed by Congress to make canals is said in the report of the committee to be derived from a clause in the Constitution, in the eighth section, in these words: "To regulate commerce with foreign nations, and among the several States, and with the Indian tribes." Thus, sir, under the power to make war, to establish post roads, and to regulate commerce among the States, or from some of them, the committee have claimed the right in Congress to level mountains, cut canals, make roads, &c. If this construction be a true one, it would seem to him, that, upon the same principles, it would not be a great stretch of construction to say that Congress have the right, and may, if they find it necessary, level the State governments and their authorities. "To regulate commerce!" Can it mean to invest Congress with the power of cutting canals? It appeared to him that no construction could be more foreign from the true intent and meaning of the Constitution. He supposed that to regulate commerce among the States would intend some general rule or law operating equally upon all; but to take possession of a particular quantity of soil, in a particular State, for the purpose of cutting a canal, could not, he thought, be a power granted or derived from the Constitution to regulate commerce among the States. The States are distinct and independent sovereignties; but if you take a portion of their territory to cut canals, they are no longer independent sovereignties; but, on the contrary, dependent on the will of the General Government. Under the term "to regulate commerce with the Indian tribes," have you a right to cut a canal through their territory, and thereby claim jurisdiction over their soil? If you have, this Constitution is a most expanded instrument, and will give to Congress much power and territory over the Indians without treaty.

Can you, under the power to regulate commerce with foreign nations, cut a canal through the Spanish territory, and thereby seize upon

Amelia Island, merely because you have a Constitutional right to regulate commerce with that nation? The evident and plain meaning of the Constitution, he thought, was that you may regulate commerce among the States by some general law not interfering with their sovereignty or territorial rights; that you may by treaty and law, make a compact with the Indian tribes, in relation to the commerce of those tribes and the United States; that you may by treaty make a compact with the Spanish nation, and by law carry that treaty into effect, which is to regulate the commerce of that nation and the United States; that you have no right under the Constitution to take possession of the soil, either of the States, the Indian tribes, or foreign nations, to cut canals under the term of regulating commerce. Indeed such powers as these, instead of regulating commerce, might entirely destroy it; because you lay hold and seize upon the subject out of which commerce is to arise between the States, Indian tribes, and foreign nations. The honorable Speaker has resorted to various parts of the Constitution, as apposite to prove his construction of that instrument. Mr. A. said he would beg leave to state an analogous clause in the Constitution, and to draw a parallel between them. The Constitution has given Congress the power "to coin money, to regulate the value thereof, and of foreign coin." Because you have the power to coin money, can you seize the ore or bullion? Because you have the right and the power to regulate the value of coin, can you seize upon the cash of the individual? Because you have the right to regulate foreign coin, can you possess yourself of the money of the foreigner who chances to be within your territory? Thus, sir, by implying power, you may cut a road, dig a canal, level a mountain, seize the property of a State or individual. Under this system of implied power, you may claim the mine of an individual, you may cut a road or a canal, or level a mountain, to get to it, and may seize and take its contents, under the term "coining money, and regulating the value thereof." He would not say that this would ever be resorted to, but he thought he might say that it was as fair to draw the conclusions which he had drawn, as the conclusions which had been drawn in relation to cutting canals, from the source from whence that power had been drawn. He had used it in argument to show that this mode of construing the Constitution would lead to dangerous consequences; and that, in the construction of an instrument of this magnitude, it would be better if we were to consider ourselves even bound to a literal construction; because, if a great benefit were likely to result from such a power being vested in Congress, a reference to the people, the fountain of power, would remedy the evil, by an amendment to the Constitution.

Mr. A. did not think with his honorable colleague (Mr. TUCKER) that we now possess this power, and in all cases of doubt, he thought we should apply to the people in the Constitutional way; but his friend was unwilling to make this

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reference to them, because he believed we already possessed this power, and did not think a sufficient number in the Constitutional way would give it. Mr. A. said he would never fear to trust the people; we had trusted them in much more dangerous and difficult times during the war—when they were hard pressed; they had been always faithful, and supplied what was necessary, and knew, as well as we did, what was necessary to be given, or withheld: that he, Mr. A. would submit to this power in Congress, if the people thought proper to give it, although, so far as his vote would go, whenever that question should be submitted to the people, he would never consent to amend the Constitution, so as to vest the power in Congress. He thought it a power they ought not to have, and would wish it to remain, where it has been, in the State governments.

But, sir, should we decide we have this right under the Constitution, to lay out and construct roads, and dig canals, through the States, the same difficulty arises which I have mentioned. How are we to condemn the lands through which the roads and canals are to run, and on which the post offices are to be built? Are we to derive those powers which the States possess, in condemning lands for public uses, by the assent of the States? Can we receive power in this way? He thought not, because the Constitution had declared the mode and the manner in which new grants of power are to be acquired. Sir, said Mr. A., there is no limitation or bounds to power thus obtained. You imply one power, and then you have to imply another to carry that power into execution. Thus the implied power becomes an original, and you have to imply a dozen others as incidental. Thus you may go on *ad infinitum* until you have no power whatever left upon which the State governments may act; their authority by degrees ceases, and they become contemptible, and the whole is swallowed up in the General Government. The honorable Speaker had said, that contracts, devises, and the punishment of murder was left to them, (even upon these new roads;) but he, Mr. A., could not tell how long that would remain with them, for it might hereafter be found convenient, or expedient, even to take that authority from them, and the less you leave for the State governments or their courts to act on, in the same ratio you weaken them, until no one will care to accept an office or trust under them.

Mr. Chairman, said Mr. A., if the States give up this right to Congress to make roads and canals for them, and she fails to make and to improve them, have the States any power left to compel her to do so? If the Congress should designate the route of the road, or canal, and should afterwards fail to construct or improve them, and the States should afterwards attempt to exercise this right, they may be told, that the right, and jurisdiction, and power, over those places belong in Congress, and that the States have no authority. Thus will be the States effectually dependent on the will of the General Government for the improvement, and passage

through their own territory. Sir, said Mr. A., if we examine the Constitution by its general tenor, it will be difficult to give Congress this power now contended for. The Constitution has expressly granted little spots of earth, a few acres, for the erection of forts, arsenals, docks, &c.; and yet, while its framers were thus cautious in specifying these few acres of land, which are to be purchased by the express assent of the States, it is contended, we may imply power enough in the Constitution to take millions of acres from the States, for making roads and canals. Could it be believed, that the framers of that instrument would act so cautiously and carefully, to avoid the assumption of power in the General Government, and yet they should form an instrument by which they were granting millions of acres by mere implication; he thought too well of the wisdom of those great men, of whom the world could scarcely furnish their equals, to suppose them guilty of such folly and inconsistency. Mr. A. said, he had said that the States ought to manage for themselves, and that they were competent to that object. Many of them had began the subject of internal improvement already, and we ought not to intermeddle and take it out of their hands, but let them improve for themselves, and, if they do not do it as well, they satisfy themselves, and we have no right to complain. He hoped gentlemen would view things as they really are, and should be; that it was necessary in the political world, as well as the natural, that things should be kept distinct and separate, because by this the whole order was preserved. Thus the person of man is free, dependent on his own will for his conduct; his house, his home, is sacred; his farm, still a larger sphere, not subject to encroachment, unless he has violated some law or duty which authorizes power to touch him by its officer; his county, or township, still a larger sphere, but still not subject to be interfered with by the regulations or officers of the neighboring county. These, all composing a larger political circle, called a State, and all the States forming one federal Union, acting on them by general regulations, yet each retaining its particular sovereignty, and the exercise of its own rights, within its limited jurisdiction, so as not to be encroached on by the other. If, then, sir, you give to any part of this political machine the powers which belong to any other part, and especially to this great federal head, you thereby diminish, and finally prostrate, all the inferior powers, which are intended as regular checks and balances against this great political wheel. It was then safe, he said, in his opinion, to preserve all the local and sectional jurisdictions, powers, and interest, which some gentlemen seemed so anxious to get rid of, in order to prevent the accumulation of power; and he would say, even some party feeling too, which, like the feelings of nature, warn and guard us against aggression; that these barriers ought not to be broken down by the amusing name of internal improvement, which, he feared, might aid in our final ruin.



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Mr. A. said, that as a further illustration that Congress cannot derive power to legislate upon any subject by the assent of the States, he would beg leave to compare the Constitution to a contract, or copartnership, into which thirteen persons had entered as partners; that each person had parted with, or deposited so much of his estate to be managed for their sole use and general welfare; that these partners had appointed thirteen agents for the purpose of conducting and managing this partnership estate for them; that these agents afterwards should require further power to conduct, as they thought, better. He would ask, whether these agents could make any new contract by the assent of any one of them, so as to bind the original persons? He thought these agents could not; their power extends no farther than over the funds which have been intrusted to them by the parties to the contract. That whenever a new contract is made, or the former one intended to be altered, this right of making or altering belongs to those who were parties to the original agreement, and not to the agents. Then, sir, according to this rule, the States, and the people of the States, have parted with a portion of their rights, which, under the Constitution, is vested in Congress as their agents. Could it be said, that this agency could acquire new rights by the assent of the States; that, whenever this power is acquired, it must be done by the originals, in the way which the Constitution had pointed out by a Constitutional concurrence of the Legislatures of the States, or by the conventions of the States as declared in the Constitution; the only way by which powers could be obtained, and not by a mere legislative majority in Congress by the assent of the States.

Mr. A. said he would detain the Committee with only a very few other remarks; that he would remind them of the old Confederation which had carried us through the Revolutionary war without any of these powers being claimed or asked for as necessary; that when the Constitution was formed, it was in principle the same as the old Confederation, except some few additional powers, which experience had suggested as necessary, the appointment of a Chief Magistrate, and some few others; that this new instrument had conducted us through the late war to peace and harmony, without these powers being possessed, or claimed as necessary; that it was capable of conducting us to any distant period, unless we apply these new principles of construction to it; that, if we do, there is no need of a Constitution at all, but we may trust all to the Congress as Britain does to its Parliament. He said he was considerably exhausted; he thanked the Committee for their attention, and would say no more.

Mr. SIMKINS, of South Carolina, said, he rose (at that late hour) to address the Committee under as serious impediments as perhaps ever fell to the lot of a young speaker. The immense importance of the subject, the length of time it had been under consideration, and the exalted talent which had already been developed in the present

discussion, together with his own incompetency, had created in him a diffidence of which he found it impossible to divest himself. But, said he, no obstacle, however great, shall deter me from raising my voice and recording my vote in favor of a subject on which the future destiny of my country greatly depends. It has been attempted by the enemies of the resolution under discussion to separate the general expediency of the measure proposed by the Committee from the Constitutional question thereon; but the first was indissolubly connected with the last—so much so that it was impossible to state the powers delegated to Congress, without bringing strongly into view the measure of expediency, so “necessary and proper” to be adopted to carry those powers fully into effect. I beg leave, therefore, Mr. Chairman (said Mr. S.) to present a short view of the distinguished advantages which would result should Congress act with an energy and wisdom suited to its dignity on this subject.

Internal improvement, then, would increase the real wealth of the country by the speedy introduction of a spirit of industry and commerce. This had been the case in all countries which had been chequered with roads and canals; that no country on earth was capable of greater improvements in this regard than our own; that the East with the West, and the North with the South, would be incited by the strongest principles of interest to reciprocate commercial favors. This sort of improvement would, in fact, be the only means of rendering our country truly independent; it would give us resources when cut off from foreign commerce by wars with that nation with whom we are most likely to come in collision. At such a time the Southern and Western States would feed the manufactories of the North and East with the raw material, and not only thereby clothe your armies, but furnish the means of paying taxes and raising a revenue, when the want of them would be most severely felt. Roads and canals would be of the most indispensable importance in another and a most obvious point of view. They would enable you, with ease, to concentrate your forces, transport your cannon, military stores, and munitions of war. The vast expense and unparalleled inconvenience suffered, during our late war, for want of these facilities, should inculcate a lesson, which ought never, for a moment, to be forgotten by an American legislator.

But what I deem, said Mr. S., more important than all, and although most eloquently portrayed by the honorable Speaker on Saturday, yet not sufficiently adverted to and kept in mind in this debate, is the consolidation of this growing country. There is not so great an evil which can assail a people, spread over such a vast surface, as local jealousies—as unfounded in their nature as dangerous in their consequences. I cannot here omit turning your attention to the unparalleled increase and rising importance of the Western country; and I have heard it said, Mr. Chairman, but never without pain and indignation, that the great ridge of mountains, dividing it

from the Atlantic States, would be the line of separation at some future day! If, then, you wish to tear up the foundation of this baleful idea, let me conjure you to make easy the communications between the two, by means of roads, and, so far as practicable, by navigation. It was said in debate, at the last session of this body, and never contradicted, that a distance beyond the mountains, which now takes eight days' travel, by the improvement of a good road might be gone in three. This shows what might be done by elevating our views to great national objects. Let us, then, by doing what is easily in our power, unite and cement, by trade and intercourse, the most distant parts of this great continent, so that, instead of being split into parties and factions, by a mere ideal difference of interests and principles, we may constitute one united, harmonious, and prosperous family!

But, it is said, that, however admonished by expediency or interest, we cannot make roads and canals, or improve navigation, because it is unconstitutional to do so. Before we can have views calculated to give a fair and natural construction to the powers of Congress, as delegated in the Constitution, let us, Mr. Chairman, go back and examine the articles of the old Confederation, and see the defects in it, which were the foundation and occasion of the adoption of the present instrument. The ruinous deficiency of these articles of association was in that great want of energy in the General Government, which alone was calculated to preserve the Union. This want of strength related to three particulars mainly: a want of power to raise money for national purposes; a want of power to raise men for "the common defence" of the continent; and a want of power to regulate commerce, both foreign and internal. These powers were all at that time vested in the States, and were once thought to be important ingredients of State sovereignty. But, what did experience prove? That the Government of the Union then existed only in name, being wholly destitute of strength and substance. Let us, then, Mr. Chairman, keep steadily in view these alarming defects, which rendered it indispensably necessary to call a convention of the several States to adopt a new order of things; this was done, and to show the objects which pressed with most weight on the minds of the convention, I call the attention of the Committee to the preamble of the Constitution: "to form a 'more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare,' &c. And, again, in the 8th section of the 1st article, wherein the powers are delegated to Congress, the power to "lay and collect taxes, &c., to pay the debts, and provide for the common defence and general welfare of the United States," &c., first arrests the attention of the convention. Now, although the power to provide for the common defence and general welfare is said to be too general to imply the giving of power for any specific object, yet I deem it of the utmost importance; for, let it be remembered, that it is inserted in the very first

clause of the section, and in the midst of one of the most important enumerations of power.

If, however, it be admitted, that the force of these particular words is restricted by subsequent specifications, yet we find in those specifications a power "to declare war," "to raise and support armies," "to provide and maintain a navy," "to provide for calling forth the militia," &c., and that Congress has power "to make all laws which are necessary and proper for carrying into execution the foregoing powers," &c. The expressions, to provide for the common defence, may be fairly taken into view, as of great weight in the construction of the powers incidental to those expressly delegated. To free the wise men, who framed the Constitution, from absurdity, it must be admitted that, in giving to Congress the power of declaring war and defending the nation, the power to make laws for carrying on this war, in the most energetic manner, must have been also given; for the power to make all laws which may be necessary and proper for carrying into effect the powers expressly given, is also expressly delegated in the Constitution. Who, then, are to be the judges of what laws are or may be necessary and proper? I answer, the members of Congress. Will they exercise it discreetly? I, for one, have full confidence that they will. Clothed with this important power, and acting under the solemn obligations of their oaths and duty, I have no fears of a vague, indefinite assumption of powers; and least of all am I afraid of a consolidation of State sovereignty, or a destruction of State rights, by men coming from, and identified with, the people of the States, elected for only two years, and then returning to the bosom of the States, in whose Legislatures most of them have served, and many of them will again serve. This alarm about State rights has been gotten up and encouraged by gentlemen most strangely. It would really seem, that both the State and General Governments were not the Governments of the same people, identified by the same interests. The late war has shown that, at times of great national peril, the danger is not from too much strength in the General Government, but too much weight in the great States, who make a stand to unnerve and palsy the arm of national power!

But, it is said, that, although Congress must judge of what laws are necessary and proper, yet this necessity must be an absolute indispensable one. In the sense in which this absolute necessity is contended for, said Mr. S., I deny the proposition. According to this construction, the powers of Congress would not be worth a feather, for the wheels of Government could not move. The power is given to lay and collect taxes; but, it might be contended by the sticklers for absolute necessity, that the power of immediate levy by distress (the present method) instead of a regular suit instituted, was not absolutely necessary, and, therefore, not given to Congress. Again, in the power to provide and maintain a navy, it might be said, that our pres-

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ent naval board was by no means necessary; for that an efficient Secretary might be quite adequate. Indeed, in the power to declare war, it might even be said, that the power to carry it on, not being expressly given, was denied to Congress. Such strict constructions would launch us into an ocean of uncertainties, and fritter away all of the Constitution that is worth preserving.

The power, then, to make roads and canals for military purposes, for the more easy concentration of troops, transportation of arms, and all sorts of warlike stores, I infer as necessarily incident to the power of declaring and carrying on a war; and, if we can make roads and canals for military or warlike purposes, it is no argument against the power, that they may, and will be used for commercial purposes. It will, therefore, not be of great importance, whether or not the power of making roads and canals, for commercial purposes alone, is given to Congress, in its general power "to regulate commerce with foreign nations, and among the several States." That this power is fairly inferrible from the power "to declare war, raise and support armies," &c., derives great strength from the 10th section of the 1st article, which expressly forbids the States from "keeping troops or ships of war in time of peace, or from entering into any agreement or compact with another State," thereby rendering it impossible for States to construct any road or canal of great importance, which must necessarily run into two or more States, by their own agreement. The idea of the existence of this power derives also additional confirmation from the 4th section, article 4th, in which the United States guarantees to each State a republican form of Government, and to protect each of them against invasion and domestic violence. It is not only in Congress, but exclusively there; for of what importance would it be, if any or every State has a right to impede it, or stop the United States from a free exercise of it? Such a state of things would involve this manifest absurdity—that the National Government is solemnly pledged to provide for the common defence, (and this provision should be made in peace, for in time of war it would not be possible to do it,) and yet had not the power of this first and most important of national duties!

There is another foundation given in the Constitution for the exercise of a power to make roads and canals; it is the privilege given Congress to raise a fund of its own, by laying and collecting taxes, which may be expended for the common defence and general welfare, or in any way Congress may deem it expedient; so that certain specified prohibitions in the Constitution are not violated. In this point of view, the assent of any State to improvements about to be made, either by roads or canals, in its own territory, may be important; for, although by the Constitution, "no man's private property can be taken for public use, without just compensation," yet the United States have the power, with their own money, to contract with any State or indi-

vidual for the use of its soil, either for roads or canals, having the civil jurisdiction over such road or canal, in the State through which it would run. The power of Congress to contract, or expend its money for any beneficial purposes whatever, is exemplified in a thousand instances throughout your statute book; and no good reason can be shown why this Government may not purchase and hold the right of way through any State or Territory; or, should such State refuse to sell, the Constitution has still given us the power to use such right of way whenever the public good may require it, provided just compensation therefor be made to the owners of the soil.

That part of the Constitution which gives Congress the power of establishing post offices and post roads, is so clear and express, and was so unanswerably demonstrated by the Speaker on Saturday, that I will not detain the Committee in endeavoring to make more plain that which is too obvious for doubt, although the gentleman from Virginia, (Mr. AUSTIN,) who has just taken his seat, has reiterated the alarm about State rights, and has denied the United States a right of way even for post roads, in case a State should resist it. The only difficulty in this question, arises from a narrow, technical, lawyer-like view of the Constitution; if we elevate our views to the great national purposes for which the Constitution was adopted, and look fairly at the instrument, all doubt must vanish.

When Mr. S. concluded, the Committee rose, and the House adjourned.

TUESDAY, March 10.

Mr. LOWNDES, from the Committee of Ways and Means, made a report on the petition of Thomas Griffin, which was read; when Mr. L. reported a bill directing the payment of certain bills drawn by General Armstrong, in favor of Thomas Morgan; which was read twice, and committed to a Committee of the Whole.

Mr. LOWNDES also reported a bill supplementary to an act to provide for the redemption of the public debt; which was read twice, and committed to a Committee of the Whole, to-morrow.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, made a report on the case of Mottram Ball, transmitted to this House by the Commissioner of Claims, which was read; when Mr. W. reported a bill for the relief of Mottram Ball, which was read twice, and committed to a Committee of the Whole.

Mr. McLANE, from the Committee of Commerce and Manufactures, reported a bill regulating passenger ships and vessels; which was read twice, and committed to a Committee of the Whole.

Mr. T. M. NELSON, from the Committee on Military Affairs, reported a bill regulating the payments to invalid pensioners; which was read twice, and committed to a Committee of the Whole.

Mr. POINDEXTER, from the Committee on Pri-

vate Land Claims, reported a bill for the relief of the legal representatives of the late John Baker, and for the relief of the legal representatives of the late Peter Trouillet, of the Alabama Territory; which was read twice, and committed to a Committee of the Whole.

Mr. FORNEY, from the same committee, reported a bill for the relief of William King, which was read twice, and committed to the Committee of the Whole, to which is committed the bill for the relief of William Barton.

Mr. FORNEY also reported a bill for the relief of certain volunteer mounted cavalry, which was read twice, and committed to a Committee of the Whole, to which is committed the bill for the relief of a company of rangers.

✓ Mr. BRYAN, from the select committee appointed on the 23d January last, reported a bill to regulate and fix the compensation of clerks, in the different offices; which was read twice, and committed to a Committee of the Whole.

Mr. MASON, of Massachusetts, from the select committee appointed on the 27th of January last, upon the subject of the claims of the State of Massachusetts, for expenses incurred in calling out her militia in the late war, made a detailed report upon the subject, which was read; when Mr. M. reported a bill to authorize the settlement and payment of certain claims of the State of Massachusetts; which was read twice, and committed to a Committee of the Whole.

On motion of Mr. FLOYD, the President of the United States was requested to lay before this House, any information he may possess, which can be communicated without injury to the public good, relative to Augustus Pierre Choteau, Julius Demun, and their company; Robert McKnight, James Baird, and their company; likewise, J. Farro; captured by the forces of the King of Spain, and confined in the prisons of Santa Fe, and that he communicate any information he may possess relative to the place where captured.—Messrs. FLOYD and SMYTH, of Virginia, were appointed a committee to present the said resolution to the President of the United States.

A motion was made by Mr. TAYLOR to amend the standing rules and orders of the House, by adding thereto the following:

“After six days from the commencement of a second, or subsequent session of any Congress, all legislative business, which, at the close of the next preceding session, remained undetermined in the House where it originated, shall be resumed and acted on in the same manner as if an adjournment had not taken place.”

The said amendment was read, and ordered to lie on the table.

The engrossed bill respecting the District Courts of the United States within the State of New York, was read the third time, and the question stated on its passage.

Mr. FORSYTH offered some remarks on the hasty progress of the bill to its present stage, and objected at some length to the object, and some of the provisions of the bill; and

Mr. COBB moved the recommitment of the bill, for the purpose of investigation and amendment.

After a few remarks in reply by Messrs. SPENCER and TAYLOR, some in favor of commitment, by Mr. SERGEANT, and some explanatory, by Mr. HUGH NELSON, the motion was negative, and the bill was passed and sent to the Senate for concurrence.

#### INTERNAL IMPROVEMENT.

The House then resumed the unfinished business of yesterday; and again went into a Committee of the Whole, on the resolution reported by the select committee on the subject of internal improvement.

Mr. JOHNSON, of Virginia, commenced the debate on this day, as follows:

Mr. Chairman, I hope the temporary embarrassment and excitement which resulted from the question as to the order of debate, will not prove unfavorable to candid, deliberate, and attentive investigation. Before this great, important, Constitutional question, the little rules of order and of etiquette fade and dwindle into insignificance. At the close of the remarks made by the gentleman from Virginia, (Mr. B. SMITH,) who confined himself principally to the expediency of the proposition, and urged some arguments to prove the benefits which would result from a correct system of internal improvement, I confess, from the known candor and liberality of the gentleman from South Carolina, (Mr. LOWNDES.) I was somewhat surprised that he should have submitted amendments to the resolution reported by the select committee, which were calculated to devolve on this Committee the decision of the abstract question of right or power in the Congress of the United States to construct roads and canals through the several States, with the assent of the States. This mode of examining the subject would have trammelled debate, and would have stripped the power of many of its odious colors. It is by examining into the manner by which this power is to be exerted and carried into effect, that we are enabled to test most clearly its character, and to determine how far it can be clearly derived from the Constitution of the United States. I am happy that the candor and magnanimity of the gentleman have prevailed, and induced him to withdraw his amendments. [Here Mr. LOWNDES explained, stating that, after the debate should be closed, he intended to renew the proposition.] Sir, I perfectly understood the gentleman. All the benefits will result to the freedom of debate, by withholding the amendments, which could result from their entire abandonment. I know the delicacy of the ground which I occupy; I feel the delicacy of the situation in which the Committee is placed, to be called on to decide on the Constitutional powers of the body to which it belongs. I am not entirely ignorant of those qualities and propensities of the human heart, which attach man to power, and call into use and activity all his ingenuity to derive for himself power and authority, from sources even the most doubtful.

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Yet I feel the most perfect assurance that this honorable Committee will pause and examine, with care and deliberation, this great question, involved, as it is, with Constitutional difficulties on the one hand, and pointing with the other to a state of melioration and improvement in the condition of the country, before whose beauty and splendor blooming Eden itself would wither.

The question, whether Congress has the Constitutional power to construct roads and canals through the several States, with the assent of the States, or to apply the revenue of the United States, when raised in a Constitutional manner, to those objects, depends on a true and sound construction of the Constitution. It involves all those doctrines which have divided the people of this country into two great political parties, under the denomination of Republicans and Federalists. The first have contended, and do contend, that the powers of the Federal Government are all specific in their character, and clearly and carefully enumerated and defined, drawing after them, by implication, no means as "necessary, but those, without which, the grant of the power would be nugatory." The latter have contended, and do contend, for a broad and liberal construction of the Constitution; not always agreeing as to the mode of deriving an express authority from some specific grant in the Constitution, but generally concurring in the extent of the implied and resulting powers which flow from the instrument. From this source, of implied powers, which has been made to increase by every touch of the hand, and to expand into wide and more irresistible streams, by those who contend for liberal construction, has been derived the authority to exercise municipal legislation within the limits of the States; to create corporations, such as banks; to introduce systems of internal improvements, &c. In the year 1791, the power to incorporate a national bank produced a most elaborate and able investigation into the Constitutional powers of Congress, particularly into that class denominated implied powers. It was in that year that the very ingenious and able report of the late Alexander Hamilton, on the Constitutionality of a national bank, was submitted to President Washington. It was at that period that the two great parties became distinctly and clearly marked. Mr. Jefferson, the then Secretary of State, opposed, in the most lucid, clear, and convincing manner, the dangerous doctrine of implied and resulting powers. He laid down the rule, viz., "that no means are to be considered as necessary but those, without which the grant of the power would be nugatory." But, Mr. Hamilton succeeded in convincing General Washington that Congress did possess the Constitutional power to create such a corporation; aided by the powerful influence which the opinions, even the name, of Washington had on public opinion, the measure was successfully carried through Congress, and, to the mortification and disappointment of the Republicans, (at that time,) the old Bank of the United States was incorporated.

Mr. Hamilton, who certainly discovered the

greatest zeal for the incorporation of a national bank, and who, in the management of the argument, discovered an ability at least equal to the zeal which he displayed, did not attempt to derive this great, and, to say the least, doubtful, power of creating corporations from the sweeping clause in the Constitution. Although I do not consider Mr. Hamilton as very high authority, I must, on this occasion, be permitted to refer to his celebrated report on the "Constitutionality of a National Bank." He remarked, "to establish such a right, it remains to show the relation of such an institution to one or more of the specific powers of the Government." He then attempted, by an elaborate train of reasoning, to prove the following propositions: That it had "a relation, more or less direct, to the power of collecting taxes; to that of borrowing money; to that of regulating trade between the States; and to those of raising and maintaining fleets and armies." To all the reasoning urged by Mr. Hamilton, the arguments contained in the opinion of the then Secretary of State, (Mr. Jefferson,) furnished the most convincing and satisfactory answer. With permission of the Committee, I will refer to his argument and reply, on the subject of regulating commerce. He remarked, "to erect a bank, and to regulate commerce, are very different acts. He who erects a bank, creates a subject of commerce; so does he who raises a bushel of wheat, or digs a dollar out of the mines; yet, neither of these persons regulates commerce thereby. To make a thing which may be bought and sold, is not to prescribe regulations for buying and selling."

My honorable colleague, (Mr. TUCKER,) the chairman of the committee which reported the resolution under consideration, although he went at some length into the views of the committee on the question, has not attempted to sustain, by any connected system of argument, the affirmative proposition, that Congress had the Constitutional power to construct roads and canals through the several States, or to apply the revenue of the United States to these objects, either with or without the assent of the States. The gentleman complained of attacks which had been made on him; that the tocsin of alarm had been sounded, and that he felt these attacks with more sensibility, in consequence of the source from which they came. I am persuaded that he cannot believe that the members from Virginia have at all contributed to produce these attacks. He must be too sensible of the personal respect which they entertain for him, of the sacred regard which they have for the freedom of opinion, to believe them capable of swelling the clamor against any man for exercising that high and inestimable privilege. The honorable gentleman, in support of the Constitutional power, has referred to contemporaneous constructions of the Constitution, as given by the Congress of the United States in a variety of laws. These have been collated with great care, and presented in a most imposing manner. I here enter my protest against such authority. What! shall the exercise of a

power by the National Legislature, legitimate the right? Shall the usurpation of power by that branch of the Government, because it has not been resisted by force, amount to legislative adjudication, and furnish precedent by which to test the powers of the Government? Have we not a written Constitution, where all the powers of the Government are enumerated and clearly defined? Who, vain and sinful dust and ashes, shall dare to interpose between the creature and his Creator, to settle affairs of conscience, and offer expiation to the deluded and self-condemned victim, whom precedents have misled, for the perjuries he may commit! I very well remember the ingenious introduction of this doctrine of legislative adjudication, on the rights and powers of the legislative body, by the late Mr. Dallas, in his very distinguished and able report on the Constitutional power of Congress to incorporate the Bank of the United States. I remember the truly astonishing effect which it produced on the members of the Government. It was the first time that I had seen the odious doctrine boldly advanced by a gentleman of high standing and responsible character.

Permit me, sir, to invite the attention of the Committee to some precedents which were introduced at an early period after the adoption of the present Government; precedents which grew up under the Administration of that illustrious and venerable statesman and patriot, WASHINGTON—that man who has been emphatically and properly styled the Father of his Country; whose opinions were so highly respected in this country, as to be calculated to consecrate error. He sent Chief Justice Jay on a foreign mission—he approved and signed the first bank charter. His successor, Mr. Adams, felt the force of the precedent. Shortly after his inauguration he despatched Chief Justice Ellsworth on a foreign mission. The framers of the Constitution of the United States presumed it possible for a President of the United States to commit a crime. They provided for the event, and prescribed in the Constitution the mode of impeachment and trial. The Chief Justice of the United States is the only officer of the Government who is expressly and peremptorily required by the Constitution to preside on the trial of the President. If, then, the President of the United States can legally and constitutionally remove, beyond the limits of the United States, the only officer who is expressly required to preside at his trial; if the precedents, furnished at the commencement of the Government by the two first Presidents of the United States, furnish the correct rule for construing the Constitution, I ask what security results to the people of the United States against the crimes and oppressions of their Chief Magistrate, from that clause of the Constitution which prescribes the mode of trial and impeachment? It would be but a beautiful illusion. During the Administration of Mr. Adams the alien and sedition acts were passed. They form precedents which furnish the legislative construction—if you please, legislative adjudication, of the Congress by which they were

enacted, of the Constitutional power of Congress on these subjects. These laws were not forcibly opposed. The sedition act was enforced in Virginia, in the case of Callender—enforced so completely as to produce the death of the miserable and unfortunate victim. I very well remember the sensation produced in Virginia, with few exceptions throughout the Union, by this act. Yet legislative precedents and contemporaneous constructions are resorted to, to prove the Constitutional powers of Congress to incorporate banks, to construct roads and canals through the several States, with the assent of the States. Permit me once again to invite the attention of the Committee to the argument and opinion of Mr. Jefferson, (a name which I can never mention without respect,) founded on the following important fact, in reference to the constitutionality of a national bank, viz., the rejection by the Convention of a proposition to empower Congress to make corporations, either generally, or for some special purpose; to which Mr. Hamilton made the following reply, in his report, already referred to: "What was the precise nature and extent of this proposition, or what the reasons for refusing it, is not ascertained by any authentic document, or even by accurate recollection. As far as any such document (authentic certainly) exists, it specifies only canals. If this was the amount of it, it would only prove that it was thought inexpedient to give a power to incorporate for the purpose of opening canals; for which purpose a special power would have been necessary, except with regard to the Western territory; there being nothing in any part of the Constitution respecting the regulation of canals." In the year 1791 the late President, (Mr. Madison,) in a very distinguished and eloquent speech delivered in Congress on the National Bank, on the question, whether the Constitutional power existed in Congress to create such a corporation, stated the following important fact: "This power was proposed to be vested in Congress, in the original plan proposed by the committee of the Convention, among the enumeration of powers which now form the eighth section of the first article, but that, after three days' ardent debate on the subject, in that body, the power was rejected and stricken out, upon the principle, that it was a power improper to be vested in the General Government." Here, then, we have the opinions—not the opinions, but the evidence, of three of the most distinguished actors on the public theatre, at the time the Constitution was adopted, two of them (Mr. Hamilton and Mr. Madison) members of the Convention, against this doctrine of precedent and implication. But, sir, I may be told that the opinions of the parties to a contract, or compact, can neither alter, restrain, or enlarge its meaning; that the compact may even contain greater powers than were intended by the contracting parties. Be it so. I am not disposed to deny that it is to the instrument itself—the Constitution—to which we are to look for the powers conferred on the Government, and not to the opinions or adjudications of others for correct in-



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formation. Nor, sir, did the acquiescence of the majority of the people of the United States, under the operation of the law incorporating the old Bank of the United States, the alien and sedition acts, give to them the sanction or character of Constitutional measures. The people of this country are a grave, reflecting, and intelligent people; they had not forgotten the perils, the dangers, and the difficulties through which they had passed, in that glorious Revolution by which they had achieved their independence. They disdained to resort to force—to the sword—for redress against the wrongs and misdeeds of their own public servants. They felt and knew that the remedy was in their own hands, to be sought and obtained through the Constitutional and peaceable medium of elections. They accordingly displaced those who had misrepresented them in the Legislative and Executive branches of the Government; supplied their places by those who were willing to bow to the supremacy of the Constitution, and the will of the nation. The alien and sedition acts were suffered to expire—the law incorporating the old bank, after a dreadful struggle, was suffered to die a natural death. Harmony between the people and the Government was restored, and the Constitution permitted to hold its proper rank as the supreme law of the land.

The old doctrine of implication was suffered to sleep until a most gloomy period of the late war. A national bank was then thought of as a mean, or expedient, to enable the nation to prosecute that war. It was represented as the only means to a successful prosecution of the war. I felt the same Constitutional scruples then which I feel now. I voted against the measure. I did not believe that the physical and moral energies of the people of the United States required the aid of any stock-jobbing, paper-shaving system, to enable them to assert and maintain their rights and independence. The result proved the correctness of the opinion. The gentleman from Virginia (Mr. TUCKER) refers us to the practice of the Government under the Constitution: The Cumberland road; other roads, as from Nashville to Natchez, &c., particularly the military road lately directed by the Executive authority to be constructed from Plattsburg, or its vicinity, to Sackett's Harbor. In reference to the latter road I am not particularly informed as to the facts, nor am I responsible for the acts of the Executive. I stand here as the apologist for no man's errors. If it be true that the President has ordered the construction of such a road, I have no hesitation in saying that, in my humble opinion, he has transcended his power. In reference to the practice of the Government, and the several laws on the subject of roads, they no more establish the Constitutional right of Congress to legislate on the subjects, than the sedition act, passed during the administration of Mr. Adams, proves the Constitutional authority of Congress, at this time, to pass laws restraining the freedom of the press.

The cases cited, in which the revenues of the

United States have been applied to the objects, not falling within the specified powers of Congress, prove nothing. It renders it necessary to make the inquiry, have they been constitutionally applied? The perseverance in error does not legitimate it. On the subject of a chaplain, I have no question that it is contrary to the Constitution of the United States, for Congress either to appoint or pay one; on the subject of the library, I think differently. Whatever is calculated to enable the members to legislate more advisedly, and more to the interest of the nation, falls properly within the definition which I have already endeavored to give of the fair incidents to the express power to legislate. I hope the honorable gentleman will point out the mode of relieving the Constitution from the violation which the appointment of a chaplain inflicts. On the subject of the historical paintings, not a very important one, I suppose the power was probably derived, by those who voted for the resolution and appropriation, from the authority to furnish the hall, to cover the floor with carpets, &c. I voted against the resolution. I have a poor opinion of the influence of pictures over moral sentiment and patriotism. The miserable Italians, cowering before Napoleon Bonaparte, surrendered to him their pictures and their statues; the degraded followers of the same Napoleon, with trembling submission, surrendered their pictures to the allied sovereigns. Your historic paintings may produce one effect; they may serve to humiliate your own citizens. The surviving soldier of the Revolution, refused that support which his poverty forced him to solicit from his Government, may, as he is turned with trembling steps from your door; and, as he catches the last glance of the evidence of his once bold and animated spirit, of the disinterested sacrifice which he had made in the cause of freedom, feel the humiliating tear of regret stain his withered, but manly cheek.

The opinions of Mr. Jefferson, Mr. Madison, and Mr. Monroe, are relied on; opinions communicated in messages to Congress, in which the policy of internal improvements is warmly and eloquently urged. And yet, it will be found that Mr. Jefferson, in his message of the 2d December, 1806, gave it decidedly as his opinion, that it would be necessary to obtain an amendment to the Constitution, to enable Congress to effect such a system of internal improvements as that contemplated by the resolution under consideration. Mr. Madison expressed a similar opinion in his message of March 3d, 1817. Mr. Monroe, in his message at the commencement of the present session, communicates his opinion on this express subject, in these emphatic terms: "the result is a settled conviction, in my mind, that Congress do not possess the right." These gentlemen have recommended to Congress to seek, in the Constitutional mode, amendments to the Constitution. To this course of proceeding, on the part of the several Presidents of the United States, I strongly object. It is to different branches of the Government that the Constitution has confided the privilege of proposing

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amendments. It is made no part of the duty of the President, nor is he given any participation in the act. What can be more dangerous than the practice, which has too long prevailed, for the President at the commencement of every Congress, to recommend to that body, to obtain an enlargement of the sphere of their own Constitutional and political powers; and, consequently, of his powers. My remarks are not intended to apply to the gentleman in office, or those who have preceded him; they are intended to guard the future. The danger will be felt, when perhaps it will be too late to avert it, when the Car of State shall be guided and directed by some bold, adventurous, and daring spirit, who will hold the reins with a firm and steady hand, and drive with desolating fury over the rights and liberties of the people of this country.

I will now proceed to notice some of the remarks submitted by the honorable Speaker. He commenced, by declaring that the Constitution was not to be considered as a bill of indictment, in which an ingenious attorney might pick a hole to let a guilty culprit escape. The gentleman will pardon me, but he seems to have taken the character of the prosecuting attorney, who appeared determined to convict all who differed from him, in the construction of this instrument, either of inconsistency, or incapacity. He disclaimed the idea of deriving any power from the general or sweeping clause in the Constitution, which gives to Congress the power to provide for the common defence and general welfare of the United States. He laid down the rule, that Congress had no power except those which had been communicated; that all powers not communicated had been retained; that no means were to be resorted to, to carry into effect a communicated power, except, in the words of the Constitution, those which were necessary and proper. If power be not in Congress, the assent of the States cannot confer it, except in the mode of amendments to the Constitution of the United States.

The honorable gentleman then proceeded to a critical examination of the Constitution. He contended that the express power had been communicated to Congress to construct—to create post roads. He referred us to the clause in the Constitution, which gives to Congress the power “to establish post offices and post roads,” and contended, that the term “establish,” had been used in different parts of the Constitution, with the intention to convey the power to create, as in the power to establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States. The third article of the Constitution of the United States was referred to, to prove the use of the term in the creative sense: “the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish;” and he contended, that the term had been used in every part of the Constitution with the same signification and meaning. Here, sir,

the gentleman is certainly mistaken. The term is used singly and independently, when applied to the post offices and post roads, and can mean nothing more than to designate. In defining the judicial power of the United States, the term establish is used in connexion with the term ordain, and is merely descriptive of a power before vested in Congress. In the eighth section of the first article, which contains an enumeration of the powers vested in Congress, it is expressly provided, that Congress shall have power “to constitute tribunals inferior to the Supreme Court.” The Speaker was more unfortunate in his reference to the use of the term in the preamble, “We, the people of the United States, in order to form a more perfect union, establish justice.” Can it be possible that any man can seriously believe, that justice was created by the convention that formed the Constitution of the United States? That, in the formation of this instrument, it created, for the first time, this divinity to bless mankind? I had always been led to believe, that justice was created in Heaven, and sent on earth at the creation of the world; that its principles were eternal and immutable, that systems and worlds might perish, but that the principles of justice would survive the wreck, and remain unaltered and unchanged. I entertain a very high opinion of the integrity, the talents, and the virtue, of the distinguished men who composed that convention; but I never believed that they possessed the attributes of the Deity. The term establish has two significations: the one literal, the other figurative. To determine in which sense it is used it must always be referred to the subject-matter, with which it is connected. Much stress is laid by the gentleman on the expressions used in the letter of General Washington to the President of Congress, in which the Constitution was submitted to the United States in Congress assembled; the terms are, “in all our deliberations on the subject, we kept steadily in our view, that which appears to us the greatest interest of every true American—the consolidation of our Union.” It was attempted to be shown, how the effect would be produced by a judicious exercise of the power claimed in the resolution before the Committee. It was admitted, that it would not be correct to impose taxes for the purpose of making the contemplated internal improvements; but that as we had, fortunately, by the creation of the Bank of the United States, gotten into our possession a considerable sum of money, it would be right and proper to use this money on objects of such great national importance. What, sir! shall one monster be created in order to generate others? Violate the Constitution, by creating a monopoly, by incorporating a national bank, and, with the premium for the monopoly, inflict a still further violation on the State authorities, by usurping municipal legislation, within their known and acknowledged limits? We are told, that money is power; I know it is. When organized in a body without a soul, it is a most dangerous power. As an appendage and dependent on the Federal Government, it places in its hands a lever, which

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may be felt from Maine to Georgia. Where will gentlemen place its fulcrum or prop—on the bosom of the Constitution of the United States? Every motion will produce consolidation, not in union but in the form of government. Every sweep will strike off some of the few remaining attributes of sovereignty from the States, until they will be reduced to the condition of mere electoral colleges.

We are informed by the honorable Speaker, that every man who would entitle himself to the character of a wise and worthy statesman, must elevate his views beyond such narrow constructions. I have never aspired to attain the sublime height, from which the Speaker looks down upon the present condition, and views in prospect the destinies of this great nation. Permit me to follow, at a humble distance, the honorable gentleman, in an examination of the consequences which he deduces from his liberal constructions. He presents us with a new system of political economy; commerce is to be diverted from its wonted channel; agriculture to assume a new character; human skill and industry to be placed under the tutelage of the Government; the condition of the people, in the different sections of the country, to be rendered precisely equal, by an artificial system of legislation. To enforce his new doctrine, his imagination presented to us commerce and agriculture under two most imposing figures; commerce is represented as the spoiled daughter of this country, in the richest costume, glittering with the most costly diamonds and precious jewels; whilst her handmaid, agriculture, was scarcely allowed a garment of the most indifferent homespun. For one, I desire that Government may not interfere with agriculture; place no fetters on her limbs; permit her to roam at large, in the pursuit of her vocation, free as the winds which fan her into health, and kindle the colors of Aurora upon her cheeks. But, sir, from what source does the gentleman derive his principles of political economy? I presume, from the same elevated fountain from which flow his liberal rules of construction.

Would he incorporate companies to encourage agriculture, domestic manufactures, and commerce? Make them all flourish, with equal vigor, under the fostering care of the Government? I have always believed, that human industry would receive the best direction, and be most beneficially exerted, when left to individual skill and enterprise; that that system was the most perfect, which left the citizen the most freedom, and permitted him, under the influence of interest, to pursue his own fortune and prosperity.

The Speaker considered it an object of great importance, to determine how revenue is to be expended, and where. He informed the Committee of the vast sums which had been expended in the Atlantic States for commerce, in the erection of light-houses, buoys, &c. He contended that it was time for Congress to turn its attention to the Western States, to bestow on them some of its care and its revenue, in furnishing the facility to domestic commerce, or the commerce

between the States. He informed us of the scramble between Boston, Norfolk, and other towns, for a naval depot, and of the vast sums expended in particular sections of the country on these objects; of the partial operation of such a system of legislation. I presume, whenever the naval interest of the country requires the establishment of a depot, the Speaker would ascertain the expenditure, and require an annual amount to be expended in constructing canals in Kentucky. Strange principle of legislation! Does the gentleman really consider that everything which is expended for the promotion of that species of commerce which relates to imports and exports, is exclusively beneficial to those persons immediately engaged in that description of trade, or to those who reside convenient to navigation? Does not commerce at this time support almost the entire expenditure of the Government, and thereby relieve the people of the Western country from the whole system of internal taxes? Surely the gentleman considers the Navy as the property of the nation. Is he willing to renounce the claim of Kentucky to the unfading glory achieved by the heroes of the mountain wave during the late war? I believe he will claim for Kentucky a full share of the honor acquired in the late contest by Lawrence, Jones, Hull, Perry, Macdonough, and the other illustrious heroes of the ocean. But, sir, apply the Speaker's doctrine of equal legislation to the subject under consideration, or to that branch of it which he thought proper to discuss. What would be the result? You could do nothing. In the United States there are between three and four thousand post offices; I presume about a thousand post roads; some of them fifteen hundred miles in length from the Seat of Government. Without opening any new roads on the gentleman's plan of equal legislation, what sum would be required to pave or turnpike the existing post roads? Take the average estimate of the Cumberland road, which is from ten thousand to sixteen thousand dollars per mile; how far would your dividends on the stock held in the Bank of the United States, and your bonus, when divided among these roads, effect the gentleman's object? The sum would not be dust in the balance. I will not attempt to prove to the Committee that, if the power be not conferred by the Constitution the assent of the States (except by way of amendment to the Constitution) cannot confer it; because my honorable colleague (Mr. BARBOUR) has furnished an answer to this branch of the inquiry, which has not been answered, and I will venture to predict will not be answered.

I think the honorable Speaker had better at once have taken the bold ground assumed by the gentleman from South Carolina, (Mr. SIMKINS,) and have derived the power from the sweeping clause of the Constitution, which gives Congress the power to provide for the common defence and general welfare, or considered it as an attribute to the sovereign authority of the United States.

The doctrine of precedent and contemporaneous exposition is again urged upon us—the inconsis-

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tencies of our Chief Magistrate and some of his predecessors forcibly pointed out. How many men, who have been ten or twelve years in public life, can point to the page of history, which contains a faithful record of their public acts, without finding inconsistency somewhere marked on the page? Do gentlemen recollect no cases of at least equal inconsistency; of opinions against the Constitutional power of Congress to create corporations, to charter National Banks?—these opinions asserted with great zeal, and supported with great ability and eloquence; subsequently, these opinions abandoned or changed, and the opposite doctrine supported with equal zeal and ability?

Mr. Chairman, I have endeavored to show the danger of relying on precedent, as furnishing the true sense and meaning of the Constitution; I have endeavored to fix a limit against the abuse of implied powers; I have endeavored, even at the fearful hazard of being classed among the quibbling lawyer politicians, to guard the Constitution from violation. But, sir, if it must be shaken from its firm basis, I will cling to its pillars if I am buried in its ruins.

Mr. LOWNDES, of South Carolina, said, that there were several questions involved in the resolution upon the table, which he should wish to discuss, but it might be inconsistent with the fair division of debate, and he should probably have neither time nor voice fully to examine them all. He had some days since proposed, that resolutions, which should afford to the Committee an opportunity of distinctly expressing their opinion on the right of Congress to construct roads, and the expediency of exercising that right, should be substituted for the resolution reported by the Committee on Roads and Canals, in which these two subjects were combined. His propositions had been withdrawn, that the opponents of the resolution might not be embarrassed in their arguments by the division of the subject; but he should renew them before the Committee were called upon for their vote. He should endeavor, however, to give them a shape which should not only separate the questions of expediency and Constitutional power, but should distinguish between the right of appropriating money to the construction of canals and roads, where the necessary rights of soil were obtained by contract with its owners, and the high power which a Government only could exert, of taking private property for public use, and making the canals or roads, which the public necessities might require, without the consent of the owners of the soil, upon paying to them a just indemnity. Both of these questions would be admitted to be involved in the resolution reported by the Committee on Roads and Canals.

To understand these two questions of Constitutional power, to which, Mr. L. said, he intended to direct his first attention, and which had, indeed, almost engrossed the debate, it appeared to him necessary to discriminate, with accuracy, between the two rights. He believed the United States to possess both; but they were supported by very

different views, and differed essentially in their character. The right of contract, of purchase, and of sale; of holding land, and of employing it for buildings, roads, canals, or any object to which the public interest might invite it, he should call a civil right. The power of taking private property, for public service, of making a road or a canal, without purchasing the land from its owner, was one of the highest attributes of Government. He should call it a political right. The two powers were different, and it might be convenient to designate them by different terms. He did not pretend to say, that he had used these words in their established sense; he should not be unwilling to adopt any better terms which might be suggested, but there could be no objection, and certainly no unfairness, if, in the meantime, he used the words in the sense which he had explained.

It was indeed most strange, that this civil right of contracting, or purchasing, or holding land, should be not only vehemently contested, but viewed as a subject of suspicion and alarm. The Constitution is the charter of our powers, and if we have it not from that authority, we must suffer from the defect. But it should seem to be a subject which we may approach without extraordinary agitation. In the character of the power, there is nothing so alarming as to prevent our deliberating with tranquillity and composure; and even if we have a right to subscribe to stock in a canal company, or to purchase from an individual the land which he may choose to sell, it will not be perfectly clear (although it seems so to at least one gentleman from Virginia) that we are on the verge of consolidation and despotism. Has the General Government, then, under the Constitution, those rights of acquiring property, and using it, which are enjoyed by every legislative body in the Union; by every municipality; by every individual citizen in the United States?

The Government of the United States possesses none but delegated powers; and will it be whispered, that there are in this country any governments which draw their powers from a different source? The General, like the State governments, has been created by the people, and for the people. By the people both are animated, checked, controlled. These civil rights of acquiring and disposing of property are possessed, as I suppose, equally by both. They are even possessed by the Governments, whose powers are fewest, and whose sphere of legislation is most contracted. When your towns and villages are incorporated, the very act of incorporation gives them those rights. The gentleman from Virginia, (Mr. BARBOUR,) denies to the General Government the right of appropriating money, except in execution of the power specifically enumerated. Yet, in his own State, I doubt not, that the cities of Richmond and Norfolk exercise these very powers of appropriation on objects neither specified by their charters, nor anticipated by their framers. I know, that, in Philadelphia and Charleston, the governments of those towns have frequently employed their funds on works of public utility, not noticed in their charters, and on

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distressed and destitute emigrants' not submitted to their government. In these instances, and instances like these, has it ever been objected, that these municipalities had no right to employ the property intrusted to their disposition, except on the object designated by their charter? Governments, whatever may be their extent, ordinarily acquire property by exacting from the individuals of their community a portion of their's. For the exercise of this high political right, they must show their Constitutional authority. But when the property is acquired, the right to employ it, to sell, or rent it, if it be land, or if it be an article, like money, valuable only in exchange, to exchange it, is involved in the elementary notion of property.

The power which the Constitution designed that Congress should have, in the disposition of the money raised by its authority, might be illustrated by a comparison with some analogous powers. In the article of the Constitution which enumerates the power of Congress, among others, are assigned to them the three primary political powers of raising armies, navies, and money. The General Government was intrusted with these three great instruments of control. It was to raise them, and, he presumed, to employ them. How should they be employed? To what services must the Army be limited? To the execution of the enumerated powers of the Constitution? Assuredly the authority to provide, was an authority to employ, the instrument, and the Army might be engaged in throwing up fortifications, or making roads; the Navy in conveying stores, or making surveys, or prosecuting maritime discovery; and army, and navy, and money, in any object, which, conflicting with no rights of States, or individuals, should be applied by the direction, and under the responsibility of the Government, to promote the welfare or honor of the country.

It happened, soon after the establishment of the present Government, that the Constitutional question, which absorbed the attention of political inquirers through the country, was supposed to turn principally upon the consideration, how far the right to effect an object must be presumed to convey that of employing means which were appropriated or indispensable, and the subtlety of both of our great parties was employed to ascertain in what degree, if in any, a bank was necessary to enable the Government to lay and collect taxes. But, if, from the designation of an object in the Constitution, may be inferred the right to employ appropriate means, from the grant of an instrument must be implied the right of applying it to its appropriate objects, and hence, the right of employing army, navy, and money, if it were not more correct to consider it as expressly given, was involved, not in reasonable, but necessary implication.

He had not forgotten, Mr. L. said, the arguments by which his friend from Virginia (Mr. BARBOUR) had opposed conclusions like these, and he certainly should not evade them. Although, in the common affairs of life, and the

constant experience of the most limited governments, the right of raising money implies that of expending it, his friend had discovered two objections to the right of the Government of the United States to apply its funds to objects of internal improvement. Of these objections, the first was, that the power to apply money must be supposed to be limited by the enumeration of powers which succeeds the grant of the power to raise it. Now, in the first place, this rule of construction was quite a new one, and his friend, instead of a system of rigid interpretation, interpolated a principle neither found in the Constitution, nor in any political instrument ever hitherto composed. It must be remarked, in this view of the subject, that the question was not whether a power of expending money had been granted, but how far we should infer a limitation of the grant. He begged the attention of the Committee to this state of the controversy. The right of expending money was admitted on both sides. The express limitations (for there were some) upon this power, must be admitted by both. But, besides these, there was, in the opinion of his friend from Virginia, an implied limitation, which restricted Congress to such expenditures as might be applied to the objects of other enumerated powers. It was a question, then, not of constructive power, but of constructive limitation. And here he had perhaps some right to claim, in his turn, the advantages of strict and nice rules of interpretation: but he renounced them. If, from the most liberal examination, from the boldest analogy, any rational limitation could be applied to the power of the Government over its expenditures, which would affect the resolution he was discussing, let it be applied.

He had already referred to two other instruments which are given to Congress in the same article of the Constitution which contains a grant of the money-power. Would his friend from Virginia limit the employment of army and navy to the objects of the other enumerated powers—to raising taxes, and passing naturalization and bankrupt laws? And even in regard to the money-power, by far the greater part of the objects of the other enumerated powers, were of a character to which money could not be applied; while there were many objects not connected with the powers enumerated in this section, to which, by the habitual practice of the Government, its money was applied, and some objects, to which, without the dissolution of the Government, it must be applied.

Mr. L. expressed his belief that no man would maintain the fanciful rule, that each power was to be limited to the objects of other enumerated powers, who should, with any patience, examine the result of this reciprocal application. And if each power was not to be so limited, why any? He thought himself justified in concluding that, where there was no express limitation in the Constitution, the Federal Government might employ army, navy, or money, for any purpose which might promote the public welfare without impairing the rights of States or individuals.

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Another objection to the doctrine which supposes that the General Government may appropriate money to objects of internal improvement, had been deduced by his friend from Virginia, from what he considered as the Constitutional rule, that the Government can purchase land only under that provision which authorizes it, in certain cases, to exercise exclusive legislation. Mortifying as was the inquiry, whether the General Government had, in general, no right to purchase land, whether it was an alien in the United States, he would repress this feeling, and follow the gentleman from Virginia in his examination of the clause in question—[Mr. L. read the 16th clause of the 8th section of the 1st article of the Constitution.] What denial of power could be extorted from this clause? that the Government should not have exclusive legislation where land has been purchased, without the consent of the legislature of the State, or purchased for objects different from those which are enumerated. The severest application of the "question" can extort from this clause no other evidence. The verbal and rational construction was clearly this: exclusive legislation or jurisdiction, as well as property, might be held by the United States over any land purchased in the manner prescribed. Exclusive jurisdiction could be obtained in no other way. But were jurisdiction and property inseparable? For the seat of the General Government, for forts and dock yards, where persons in its service might be permanently stationed, it might be well that the laws of the United States should exclusively apply. Jurisdiction and property might be here combined, but, although a road to the fort or dock yard might be necessary, there was obviously no reason why the United States should have exclusive jurisdiction over such a road. Their occupation of it would be transient and occasional, and if theft or murder were committed upon it, why might not their punishment be remitted to the courts of the State? Under his construction, which conformed strictly to the words of the instrument, where exclusive jurisdiction was convenient, the mode was prescribed by which it might be obtained. Where jurisdiction was unnecessary, the Government, to which the property of the soil was sufficient, might obtain it by ordinary purchase. Now examine the effect of the other construction. A road to a fort is as necessary as the cannon upon its bastions. How must that road be made? He would try, Mr. L. said, though with an unpractised hand, one of the favorite weapons of his friend from Virginia; he would borrow his dilemma. A road which is necessary or convenient to a fort, must either be considered (within the meaning of the Constitution) as the fort itself, or it must not be so considered. To consider as a part of a fort a road, however necessary, which extends a dozen miles from it, would be to offer, on the part of the literal interpreters of the Constitution, no small violence to its language. With such interpretation, military roads might be built, but, with this inconvenient obligation on the

General Government, that it should exercise exclusive legislation over them. It wishes the road, and not the jurisdiction, but it is obliged, according to the gentleman from Virginia, either to refuse the property, which it is its interest to acquire, or to acquire the jurisdiction which it has no interest in obtaining. The State must either renounce the jurisdiction which its convenience and public order require it to retain, or retain the property which the General Government required to be vested in the United States. But his friend from Virginia would probably say, that the road to a fort, however necessary, was not the fort itself, and really he thought him right. But as we can acquire, according to his construction, no land except for forts and dock yards, and other specified objects, it follows that the General Government has a right to make the ditch, and rampart, and platform of a fortification, but that the road which is necessary to supply it with reinforcements, or provisions, or munitions of war, cannot be constitutionally made by it, even with the consent of the owners of the soil. The State, indeed, or the people of the neighborhood, may do the work and keep it in repair; and upon this contingency must depend the power of the United States to maintain a garrison for the protection of the country which it was established to defend.

The opinion of the gentleman from Virginia, that the General Government had no right to acquire land, except in the cases specified in the Constitution, was indeed alarming, if it were not palpably erroneous. The Government has bought lands to an immense amount, and if the title is in all these cases bad, the result will be something worse than a pecuniary loss. He would not speak of custom-houses, which had been purchased, or lands which had been received in payment from public debtors. The loss arising from the discovery, that we had no title in these, would not, probably, exceed a few millions. But what becomes of the territory which we have purchased? Of other Western territory he would not speak—but what becomes of the Mississippi State, or the Alabama Territory? The State of Georgia owned this territory—so have said your Legislature, your Executive, your courts. We did not want it for a fort, or a dock yard, or a seat of Government, and yet we bought it. If the general Government have not a right to buy land, except for certain enumerated objects, the State of Mississippi has not been constitutionally established—the land of Mississippi not legally sold!

The gentleman from Virginia had not disdained the aid of authority. He had quoted some sentences from the "Federalist," which confirmed, as he supposed, his Constitutional doctrines. The Federalist was the composition of three very able men, who had great agency in framing the Constitution, in procuring its adoption, and afterwards in administering it. It was, too, a contemporary exposition; but, the exposition of jealous advocates, anxious to procure the establishment of a Government on which depended the happi-



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ness and liberty of the country; is it to be believed, that they never represented a power as less extensive, a limitation as somewhat more strict, than an impartial judge would have pronounced it? If the opinions of Patrick Henry and Mr. Monroe should be read to the Committee, as evidence of the just construction of any article of the Constitution, this contemporaneous exposition would weigh but little; nor ought it to weigh. By the apprehensions of the one party, a necessary and well guarded power was almost magnified into uncontrolled despotism; while the complacency with which the other party were disposed to view their own work, led them to believe its provisions less obnoxious to abuse than they really were. The *Federalist* was written by men yet warm from debates, in which all their ingenuity and talent for refinement had been employed to prove, that the powers which the Constitution gave were not great enough to be dangerous. That, with such powerful disturbing causes, the judgment of these distinguished men should so often have led to the same construction of the Constitution, which cooler examination has since confirmed, is a rare testimony of their merit. They were indeed able advocates, whose speculations may be admitted to illustrate any question of Constitutional laws; they were zealous advocates, whose opinions should never be permitted to decide it.

Mr. L. said, that, with his view of the work, he should not attempt to draw any favorable inference from the quotation which had been read; nor would he search its pages for others which might be less obscure. It had been urged as an objection to the Constitution, that the vague words "to provide for the general welfare," would be considered as a grant of all legislative power. This objection was triumphantly refuted by the enlightened author of the number which had been quoted. He did not attempt to defend the clause by showing, that it contained a restriction upon the expenditure of money by the Government, or upon its rights of contract or of purchase; but he met the only objection, which the ingenuity of that day could suggest, that it contained a grant of political power, by the position, that it gave to the Government no authority to control individual action or right, which was illustrated by observing, that a power to raise money could not certainly convey that of changing the course of descents, &c.

Mr. L. said, that he had nearly forgotten to notice an objection, which indeed he was not anxious to refute, but which occupied a very conspicuous place in every argument against the resolution. He referred to the proposition, that the consent of a State could not give Constitutional power to Congress. He did not consider it essential, that this argument should be answered, and it was still less incumbent upon the supporters of the resolution to defend all the details of a bill, which had been vigorously attacked by a gentleman from Virginia, (Mr. SMYTH) but which nobody had defended, because it was not now before the House, though indeed a year ago

it had been. He would, however, state the views in which, it appeared to him, that the assent of a State to the construction of a road might be convenient, leaving it to other gentlemen to exhibit those which they might consider as rendering it necessary. A State might own the land over which the road might be required to pass. It might be disposed to obtain the necessary rights of soil in a road in which it was interested. It might conveniently apply its familiar practice of appraisement so to obtain them, and might combine its resources with those of the United States; and the assent of the State would here be most material.

He was not disposed to ask from any State the grant of a power to protect and repair the roads which the General Government might construct. But there was a consideration, which to many gentlemen appeared very strong, to induce the General Government to obtain the assent of the States to all acquisitions of property within its limits. Was it not necessary to secure exemption from taxation? He confessed that to him it appeared preposterous to suppose that the States should tax the General Government, or the General Government the States. If a foreign Ambassador shall not be taxed by the Government to which he is deputed, because he represents an independent Power, he supposed it much clearer that this Government, to which the protection of the States was intrusted, whose resources of revenue were the contributions of the States or of their Citizens, could not be required to raise taxes from the States, in order to pay taxes to the States. This was, indeed, one of many cases, in which the Constitution, instead of attempting to define or limit the relative powers of the General and the State Governments, where collision might easily have been anticipated, seems to have trusted to the discretion of both. In practice, each Government has thought itself entitled to tax the other, as is proved by the acts for raising direct taxes, and for admitting new States into the Union. And in some few instances these taxes have been paid. The General Government has made it a part of its compact with the new States, that they should not tax its lands. When about to obtain property in a road, why not make (it may be said) a similar compact? Perhaps in both cases the compact may be unnecessary; perhaps it may be considered harmless, and even prudent, in both.

It would, he believed, be prudent for him here to rest the case. To deny to the General Government the common rights of purchase and of contract, was to impute to the Constitution itself so gross a defect, and to those who have administered it such habitual neglect of its provisions, that he could not apprehend that such denial would be supported by a vote of the Committee. But he held no opinion which he was not willing to avow. In support of the resolution, he had thought it enough to show that the General Government might employ its money or its land, as any citizen might, and that, of consequence, it might make a road which should affect the

rights of no other party. But he was far from thinking that it was in execution of this civil right only, that the Government of the United States had power to construct a road—the Constitution had not been so improvident.

He believed that the Federal Constitution had vested in the Government of the United States the high power of taking private property for public use, and of making, in certain cases, the canals and roads which the public necessities might require, even without the consent of the owners of the soil, upon paying to them a just indemnity. Such a power must not be loosely inferred. It could not be represented, as might the rights of contract and expenditure, of which he had hitherto treated, as conflicting with no other right. It was a high political power, to which the rules of construction of the gentleman from Virginia properly applied. It must be shown that the Constitution expressly gave it, or that it was necessary to the execution of the powers which it had given.

Gentlemen must admit, however reluctantly, that the General Government has some power to take private property for public use, besides that which consists in raising taxes. The fifth amendment requires that where this is done the owner shall receive a just indemnity. This amendment guards the property of the citizen, not by withdrawing from the Government a necessary power, but by connecting with it a just obligation. Property, then, may be taken for public use. Shall we be told that this means only personal property? Why this technical distinction? The words do not require it, and it may be as necessary to take ground for the site of a military post, as timber for its palisades. But gentlemen say, that you can only take this property when necessity requires it, and that when the necessity ceases the property must be restored. This doctrine might be inconvenient to all parties, and it cannot be supposed that, where the Constitution imposes the obligation of paying the full value of the property, the former owner still retains a reversionary interest in it. He had said that neither the General Government nor those of the States, possessed any but delegated powers. He had no doubt that the State governments had the right to make roads and canals; and it would be to him an inscrutable mystery that a people should, in their State constitutions, give to their Representatives the power of levelling houses and taking private property, that the street of a town might be widened, and its convenience and beauty promoted, and that the same people should refuse to their Representatives, in the National Government the same power; not to promote the symmetry, but to secure the defence of their towns. If a gentleman's private house occupy a situation over which it is convenient that a new street should pass, the State government divests the owner of his property rightfully. But, if the same house occupy a station which is necessary for the safety of the town, the government which is charged with its defence, if it cannot buy the lot from the proprietor, must relinquish it for the enemy. And the

mystery thickens, when we observe, upon examination of the State constitutions, quite as little appearance of a special grant of this power to take private property as in the Federal Constitution. But, perhaps, there were technical rules of construction which ought to be applied to the one constitution, and not to the others. He did not know them, but he should draw no argument from this analogy, but refer to the articles of the Federal Constitution, which, as he thought, gave to the General Government the right of making roads and canals, and of taking private property for this purpose, upon paying to its owners a just indemnity.

In this inquiry the attention is naturally drawn, first to that article of the Constitution which gives to Congress the power to establish post offices and post roads. Upon this field the positions taken by the Speaker were impregnable, and he was not disposed to waste much time in superfluous efforts in their defence.

There were, however, two circumstances to which the Committee would allow him to refer, without detaining them by a long commentary. Gentlemen had insisted that the Constitution designed to give to Congress the power of designating post roads. Now, it happened that, at the adoption of the Constitution, the subsisting Government had exactly this power of designating post roads. They were in its constant exercise. The act of Confederation authorized Congress "to establish post offices," and post roads were designated in the easiest and most natural method, by establishing in the several post offices the points through which they were to run. If the words of the Confederation had been adopted without addition, he should have thought that the powers of the Confederation only would have been enjoyed by the present Government; but, as the Convention were dissatisfied with these, and added a power to establish "post roads," he must think, with the Speaker, that they intended to convey the power which the words naturally imply of making post roads. There was no novelty, Mr. L. said, in this construction. In one of the first reports made by the Postmaster General, under the present Government, he asked an appropriation for a post road. Whether the state of our finances forbade this expenditure, or the appropriation was included under some general head, he had not been able to learn. But there was no trace of any Constitutional objection having been then made, and he believed those objections to have been the discoveries of a later age.

But, if he were obliged to select some one specified power to which he must consider the power of making canals and roads as incidental, he should certainly select that of employing the military force of the country, as requiring this supplement. "Congress shall have power to raise armies." We all agree that the power may be exercised in war or peace. It is both the right and duty of the United States to maintain garrisons in some exposed points. These will not be in the centre of the country, but on its frontier. Wherever there were troops it should seem that

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there should be roads, over which provisions and munitions of war might be transported; which might serve sometimes for reinforcement, sometimes for retreat. These exposed points might well be supposed to be distant from the settled country, and to the military occupation of such points, roads were indispensably necessary. But, illustrations of the military importance of roads were furnished, even by our Atlantic frontier. For many of our forts were placed on two points of land, projecting in rivers or bays, whence a communication with the high ground could only be obtained by long and expensive causeways. Had the Government no right to make these, and must it relinquish the most favorable positions for defence, and at a greater expense obtain less security, because the appropriate position was a point of marsh land, and the Constitution had not said that it might make a road to it?

But he was talking of old systems of defence. To place your garrisons where you could supply and sustain them; to station armies where, by facilities of communication, they might rapidly support each other, were once considered prudent and necessary arrangements. But the gentleman from Virginia had proposed a new scheme of military preparation. Instead of providing roads which should enable you to transport munitions of war to any point which might be threatened; he told you that you might build arsenals upon the frontier. Yes, you might build them for the enemy. With a frontier clothed with arsenals, (he should say nothing of the economy of such a scheme,) without facilities of communication which should allow a considerable force to be quickly collected for their defence, your arsenals would supply the wants of your enemy, not yours; and the same scheme would even make your forts untenable. It was obvious that, on the frontier, arsenals could not be maintained without an army, nor an army without provisions, nor either without roads; and the certain result of this new system must be, that fortifications would be lost without a siege, and armies capitulate without a battle. But even the system of the gentleman from Virginia admits of some relaxation. There are laws of war whose authority he does not dispute. The Constitution gives us, in peace, no right to make a road however necessary; but, during war, we may make roads to attack the enemy, or to escape from him. But this, they say, is a right which we have in common with the enemy himself, not given by the Constitution, but derived from the law of war or the law of nations. And what is the law of war? The law of force; a law which subverts all law; which suspends liberty, where it does not destroy it. And was it in this indefinite and military power that the prudence of his friend from Virginia would take refuge, rather than admit, on the part of Congress, a power to provide for the same objects, with that regard for private right which belongs to the civil character and with the economy which the order and regularity of peace permit? As a Constitutional power of Congress, it has guards which make it safe, and may

be exercised with a foresight which will render it effectual. Adopt the view of the gentleman from Virginia, and the power, while it lasts, is unrestrained and indefinite, and the right to exercise it commences only when its employment becomes expensive, precarious, or impracticable. How completely does this system of interpretation defeat its own object! How dangerous to liberty is that zeal in its cause which represents the defence of the Constitution as incompatible with the defence of the country! Was it not evident that this right to make a road, which was deduced from the laws of nations and of war, would be too often unavailing? When forced to retreat, we may begin to make a road, under the cannon of the enemy; we may constitutionally use the pickaxe and the spade, when every hand is required for the bayonet. And here we have no bad illustration of the character of these Constitutional doctrines. Roads and canals are always useful, sometimes necessary; there are cases where the General Government may construct them; but when? They are practicable in peace, but then they are unconstitutional; they are Constitutional only where they are absolutely impracticable.

There is indeed no reason to think (if the Constitution gives to the Government the power of constructing military roads) that the exercise of this power must be confined to war. Garrisons must be maintained in peace or war, and roads are necessary for them in either state. In war the march of troops is more frequent and rapid; but in peace, too, their movements are often necessary. Nor can the question of Constitutional power depend upon the urgency of the necessity, or upon the remoteness of the evil, which that power is employed to avert. You may make a road if it be necessary to advance upon the enemy the next week; but suppose it will be necessary the next year, or, as oftentimes it happens in military transactions, suppose the time when it will be necessary to depend upon movements of the enemy, upon which you cannot calculate, surely these considerations affect only the expediency of making the road, and not the right. If it be necessary that military roads should be made, *when* they should be made must be intrusted to the discretion of the Government, and they would do the Constitution little service who should place it in constant opposition to prudence and reason, and, while they recommend in peace a provision for the exigencies of war, should denounce this provision as unconstitutional, because it was provident and wise.

He would detain the Committee no longer on this subject. If the Government, which has the power to raise armies, has not that of making military roads, the instrument is given and not the power to employ it.

Mr. L. said, that he should have made no observation on the right of the Government to construct canals, if an amendment had not been proposed which seemed to indicate an opinion that this right was less clear than that of making roads. But if a road may be made for the trans-

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portation of military stores, why not a canal? Your right to make either is derived from its subserving the great purpose of military supply. The only canal which had been made or improved, under a law of Congress, was that of Carondelet, and the reason assigned (he believed in the act itself) for extending public assistance to the work, was the communication which it would open for gunboats between the lakes of New Orleans and the river.

He should not detain the Committee by any verbal remarks on that clause of the Constitution which gives to Congress the power "to regulate commerce." But there was a view which might be taken of the right to make commercial roads, rather calculated perhaps to excite suspicion and jealousy than to conciliate support. He would state it, however, because he wished to conceal no part of his opinion. His friend from Virginia had said that the Constitution contained a distribution of political powers; that powers which were useful, but of a character which the separate Legislatures could not exercise; in other words, that national powers were given to the General Government. He concurred in this opinion. This distribution of powers was not so clumsily effected as that any useful power should be lost in the process. The rights and interests of the country were secured by the Constitution, not impaired by it. The rights of the States were secured in terms. Independently of the Constitution, the States had some mutual rights. The central States had unquestionably that of navigating the streams which flow from their limits to the common property of nations, the ocean. Their claim to a road to the same goal was not very different in principle. These rights, independently of the Constitution, they could secure by negotiation or war. The Constitution precludes these; but it does so by substituting, for a violent and precarious, an orderly and effectual remedy. Rights to specific property, if they are the subjects of controversy between States, are decided by the Federal Judiciary: rights equally secured by the Constitution, but which cannot be enforced without legislation, must look for their support to the Federal Legislature. In this view, it is rather a question between the different departments of the General Government, in which shall be vested the power of securing the rights of navigation and way, which the central States may claim. And the character of these rights sufficiently shows that they must be secured (in the unexpected event of their requiring any other security than the mutual interest and amity of the States) by the legislative provision as well as judicial authority.

To prove the right which the central States had by the laws of nature and of nations to the navigation of the rivers which flow from their limits, Mr. LOWNDES read several extracts from a report of Mr. Jefferson, when Secretary of State, to the President, (10 vol. public documents, p. 137.) and he said he read these not merely to show that these were rights which the inhabitants of the higher country, and those States to

which they belong, have in the rivers and shores of the lower country, but that those rights were of a character which might require legislative provision. He contrasted the principle that the United States had a right to establish, at their expense, light-houses, buoys, or beacons for the improvement of the navigation of the Mississippi while it was Spanish, with the doctrine which denies them the power of appropriating money to the same object now, because it is American.

Mr. L. said that, although there were a few other views of the Constitutional powers of Congress, in making roads, which he had intended to take, he would not abuse the attention with which he was favored, by further remarks upon this topic of inquiry. But he had already dwelt upon it so long, that on the remaining question which he had intended to discuss, the expediency of applying a part of the national revenue to purposes of internal improvement, he could scarcely do more than express his opinion, without defending it. He would willingly indeed have made this the principal object of his attention, but the undivided force of those who oppose the resolution had been directed against the Constitutional power, and its friends had naturally applied their principal efforts to the same point.

He did not feel upon this subject an enthusiasm which would blind him to the probabilities of abuse. Whatever road or canal the interest and enterprise of individuals would prompt them to complete, he doubted not would be accomplished by them more economically than by the Government. Nay, he was willing to admit, that whatever in this way the State governments should attempt, would in general be better done by them than by the Government of the United States. But there were military and national roads which must be made by the Government of the United States, or not at all. To these he would be willing to apply a part of the public income. It had been remarked in the course of the discussion that it must be the interest of individuals to make an improvement whenever it was the interest of the country that it should be made; but that, where a canal or road would not give to the stockholders the ordinary profits of money, a different employment of capital would be better for them and the country. He admitted the general principle, that industry and capital would generally receive from private interest the direction which would be most conformable to the public good. But he did not admit that all public improvements must be supported by private speculation. He would not attempt to detail the reasons which made the canals and roads of every civilized country the objects of attention to its Government. He believed that roads were nowhere left entirely to voluntary undertakings and individual interest. They were usually supported by taxes, though these were neither general nor equal ones. The profits of a turnpike road divide themselves between the stockholder, the landholder, and the traveller, and an expenditure which brought to the company who made it a profit of five per cent.

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might often give to the country a large one of ten or fifteen. But he would not engage further in an argument which he was too much fatigued to complete.

After Mr. LOWNDES had concluded his remarks, he rose again to revive the amendment which he had proposed to the resolution on Friday, but which he had afterwards withdrawn, that gentlemen might be left free to debate the whole subject, untrammelled by the question being presented separately in its different branches. That the members of the Committee might now have an opportunity of voting for any one branch which might be acceptable, and against any which might be objectionable, he renewed his motion, with some variation, to divide the proposition into three distinct resolutions.

The question was then taken on striking out all the original resolution after the word "Resolved," and inserting the following; and decided in the affirmative—ayes 78, noes 58.

"That Congress has power, under the Constitution, to appropriate money for the construction of post roads, military and other roads, and of canals, and for the improvement of water courses."

The question was then taken on the second resolution, offered as part of the substitute, by Mr. LOWNDES, and agreed to—ayes 76, noes 70, as follows:

"Resolved, That Congress has power, under the Constitution, to construct post roads and military roads; provided, that private property be not taken for public use without just compensation."

The third branch of the substitute was also agreed to—ayes 70, noes 69, as follows:

"Resolved, That Congress has power, under the Constitution, to construct roads and canals necessary for commerce between the States; provided, that private property be not taken for public purposes without just compensation."

Mr. MERCER proposed to add another resolution to those agreed to, which, after some discussion, was adopted—ayes 75, noes 63, as follows:

"Resolved, That Congress has power, under the Constitution, to construct canals for military purposes; provided that no private property be taken for any such purpose without just compensation being made therefor."

Mr. LOWNDES then moved the adoption of an additional resolution, as follows:

"Resolved, That it is expedient that the sum to be paid to the United States under the 20th section of the act to incorporate the subscribers to the Bank of the United States, and the dividends which shall arise from their shares in its capital stock, be constituted as a fund for the construction of roads and canals."

The question on this resolution was decided in the negative—ayes 72, noes 73.

Mr. FORSYTH then moved that the Committee rise, and report the resolutions to the House. This motion brought on a desultory debate of an hour's continuance, in which Mr. HUGH NELSON, in opposing the motion, and asking that the opponents of the resolutions be allowed at least one day more to urge their objections to them, inci-

dentally avowed his hostility to the resolutions as a dangerous and alarming assumption of power, and a direct infringement of the Constitution and of State rights, &c.

Mr. JOHNSON, of Kentucky, in reply, also incidentally offered a few remarks in favor of the resolutions.

Finally, Mr. FORSYTH's motion was withdrawn, when the Committee rose, reported progress, obtained leave to sit again, and, about five o'clock, the House adjourned.

WEDNESDAY, March 11.

Mr. TUCKER, of Virginia, from the Committee on that part of the President's Message which relates to Roads, Canals, and Seminaries of Learning, made a report upon the subject of the Cumberland road; which was read, and ordered to lie on the table.

Mr. RHEA, from the Committee of Pensions, reported a bill for the relief of Henry King, which was twice read, and committed.

#### CLAIMS FOR DESTROYED PROPERTY.

Mr. WILLIAMS, of North Carolina, from the Committee of Claims, who were instructed to inquire into the expediency of continuing in force the act of April 9, 1816, and the supplementary act passed in 1817, for indemnifying those who have sustained losses of property while in the military service of the United States, made a report, concluding with the following resolutions, the latter of which, it will be perceived, have reference to certain combinations to commit frauds on the Office of Claims, which have been detected:

1. *Resolved*, That it is inexpedient to continue longer than the 9th of April, 1818, the act entitled "An act to authorize the payment for property lost, captured, or destroyed while in military service of the United States, and for other purposes," passed the 9th of April, 1816, and the act in amendment thereof, passed third of March, 1817.

2. *Resolved*, That all claims which shall not have been acted on in the office of the Commissioner on the 9th of April next, be transferred for adjudication to the office of the Third Auditor of the Treasury Department, and the said Auditor, in making up his decisions, shall be governed in all respects by the same rules, regulations, and restrictions, as have been prescribed to the Commissioner of Claims.

3. *Resolved*, That the Committee of Claims be directed to report a bill pursuant to the foregoing resolution.

4. *Resolved*, That the Attorney General be directed to cause to be instituted in the courts of the United States, for the State of New York, any suit or suits which may be necessary to recover from individuals the money they have fraudulently obtained from the Government of the United States, under the act of the 9th of April, 1816, and the act amendatory thereto, passed the 3d of March, 1817.

5. *Resolved*, That the Attorney General be directed to cause to be instituted in the courts of the United States, for the State of New York, such prosecutions as may lead to the conviction and punishment of those persons who may have been guilty of the crimes

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of perjury and subornation of perjury, in support of fraudulent claims against the Government of the United States, under the aforesaid acts of the 9th of April, 1816, and 3d March, 1817.

The report was read, and ordered to lie on the table.

#### MEMORIAL OF VINCENTE PAZOS, &c.

The SPEAKER laid before the House the memorial of Vincente Pazos, representing himself as the "deputed agent of the authorities acting in the name of the Republics of Venezuela, New Grenada, and Mexico," representing the views with which the said authorities took possession of, and occupied Amelia Island, in East Florida, complaining of the investment and capture thereof, by the arms of the United States, the loss of property and other injuries sustained, in consequence of the occupation of the island by the United States, and his application to the President of the United States for redress in the premises, and his failure to obtain it; and praying relief from Congress: Which being read:

Mr. FORSYTH moved that the petition be not received. He stated that as the petitioner was the agent of a foreign Power, and applied to Congress as an appellate power over the Executive, he thought it improper that he should be thus heard.

Mr. COLSTON remarked that in his estimation the petition ought to be laid on the table and printed, that the members might know its contents before any disposition was made of it. At all events, Mr. C. said, he should insist on the reading the petition before he voted upon any question respecting it.

Mr. JOHNSON, of Kentucky, was surprised at the motion of Mr. FORSYTH, and contended that this House was bound to receive any petition couched in respectful language, whether it implicated the Executive or any other officer of this Government.

Mr. HARRISON hoped the petition would be received, and mentioned several instances of petitions having been presented to Congress and to the British House of Commons from foreign agents and Powers.

Mr. FORSYTH replied that he did not make the motion in order to screen the Executive, but his objections were upon principle; he thought it improper for Congress to interfere with the Executive department in its appropriate intercourse with foreign Powers.

Mr. ROBERTSON, of Louisiana, contended that the House were bound to receive and read the petition at least, in order to know whether its subjects did or did not come properly within the cognizance of Congress. He supposed that it complained of losses and the destruction of property, to compensate which the intervention of Congress was essential.

Mr. COLSTON called for the reading of the petition.

[The memorial was read as required. It purports to be "the memorial of Vincente Pazos, of Peru, deputed agent of the authorities acting in

the name of the representatives of Venezuela, New Grenada, and Mexico," and states the motives of these representatives in giving authority to occupy Amelia, &c., and the manifold grievances of loss of military stores, &c., as well as of the military position; complaining also of a recent decision of the admiralty court for the district of Georgia, in the case of a prize vessel, and denying the crimes of smuggling and slave dealing imputed to the occupants of that island. The memorial, after stating that the memorialist has addressed the President of the United States on this subject, and has received an answer not satisfactory thereto, concludes as follows:

"In repeating these manifold grievances to your honorable House, your memorialist looks with confidence for that dignified and sincere support of the great republican cause in which those whom he represents are so deeply engaged, and he reposes in the bosom of your august assemblies those representations depending on such a redress of grievances as shall comport with the honor, dignity, and justice of the Government of the United States."]

Mr. LOWNDES stated his readiness to inquire into the conduct of the Executive, but denied that the right of petition belonged to any but citizens, and that if we received the petitions of foreign nations, it would transfer the diplomatic functions from the Executive to the Legislature. The petition referred to correspondence between the agent and our Executive, and Mr. L. objected to such a mode of bringing diplomatic correspondence before this House. Mr. L. was willing to inquire into this or any other subject of complaint; but he objected to such a course as the present, which every member had the means of bringing fairly before the House in a proper shape.

Mr. TUCKER, of Virginia, said, that while he coincided in the great principle on which Mr. LOWNDES had based his remarks, he was desirous of stating why he was disposed to vote for receiving the memorial, until he should receive some further information on the subject. He had inquired and found that a motion to permit the memorialist to withdraw his memorial, in order to give it another shape, would not be in order until it had been first received by the House. He agreed thoroughly with Mr. LOWNDES, that this House never should entertain any appeal on the part of the representative of any foreign Government; he never would entertain such an appeal; yet, as he conceived from the reading of the paper, that it contained an application to this House in relation to a claim of property on the part of individuals, he preferred receiving the paper, and then moving to permit the petitioner to withdraw it, in order to give it a shape that should not be objectionable. It appeared to him that the persons who were found in Amelia Island, were at this time under the sovereignty of the United States, and entitled to prefer their petition here. The case differed from that put by Mr. LOWNDES, of an appeal by the Spanish Minister in relation to an existing negotiation.



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He was a known and acknowledged Minister; his application would be on a public concern alone. The present application had a double aspect; something of a public character, which he would reject—something of a private right and complaint, to which, if separated from the other, he would attend. Mr. T. also suggested, as a difficulty, whether the rejection would not be attended with embarrassment, as it would involve a decision on the question of the independence of the South American provinces.

Mr. BASSETT asked whether the motion of Mr. FORSYTH was in order, believing that, so long as he had been a member, he had never heard of such a motion.

The SPEAKER believed the motion might be entertained, though he did not think there was any precedent for it.

Mr. PITKIN, in reference to the petition, said he had never known any petitioner to come before this House in the capacity of a foreign Minister or agent. We have had, said he, during the present session, Messages from the President, transmitting the communications of foreign accredited agents, on different subjects, and, if he had thought it proper that the subject of this petition should have come before the House, he would have sent it to us; and shall we receive from another hand that which the President has not thought proper to communicate? He had officially informed the House of the suppression of the Amelia Island establishment, but no one had thought of instituting an inquiry into the Executive conduct in that business, and shall we now, said he, suffer a foreign individual to come forward and arraign before the House the conduct of the President? Such a course would be unprecedented and highly improper. Had Don Onís ever adopted the course which this agent has taken? Never. If, said Mr. P., it be proper to impeach the President for malconduct, let us do it ourselves, but not at the instance of this foreigner. This, he said, was reversing the order of things; instead of receiving complaints from the Executive of the conduct of foreign agents, we are receiving from foreign agents complaints, addressed to this House, against our own Executive. If gentlemen were dissatisfied with the Executive conduct in this matter, let them call for information, and act accordingly, but not proceed in this way, at the instance of an unknown foreigner.

Mr. TRIMBLE, of Kentucky, regretted the objections to this petition. He had heard that justice was blind, but had never seen her represented without ears; and, for this reason, that she may hear the complaints of all, but decide without seeing them. Mr. T. said he did not understand that, by hearing this petition, the House was about to receive an appeal against the President, or to imply any censure on him by so doing; on the contrary, he thought it due to the President to vindicate his conduct, if the patriots of South America charge him unjustly. It was objected that this agent could not be received on an equal footing, because he was not accredited by our

Government. This inequality of his standing with the Executive branch, was a good reason, Mr. T. thought, why he should be heard in this House. Mr. T. had not the remotest intention of censuring the Executive in this business; and he wished it to be distinctly understood that, in relation to its intercourse with foreign Governments, he would never put our Government in the wrong, as long as he could honorably avoid it; but that principle should not restrain him, in any case, from scrutinizing the Executive conduct, and seeing if it be right or wrong. He thought this course was due to our neutral obligations to Spain, on one side, and to the South American patriots on the other; and it was proper to inquire into the fact, whether the seizure of Amelia Island was compatible with this neutrality. To reject this petition, Mr. T. contended, would hold out to the South American Governments an improper rule of action; the reasons would not be known to them, and it would give them erroneous ideas of our motives of proceeding in this matter. As to the character of the agent, Mr. T. would not inquire into it—it was sufficient that he presented himself here in the capacity that he did; and his not being accredited, Mr. T. repeated, was a reason for hearing him in this House.

Mr. POINDEXTER, of Mississippi, declared himself as friendly to the cause of the patriots as any man in the House; but, notwithstanding this feeling, he justified the Executive in suppressing the establishments of Amelia Island and Galveston. Not a vessel had arrived from New Orleans, Mr. P. said, whether American or Spanish, which did not dread those pirates. [The SPEAKER reminded Mr. P. that his remarks were taking too wide a scope to be in order.] Mr. P. said he considered the conduct of the President to be aspersed by the paper on the table, and, whenever the subject should be called up, he would vindicate that conduct, and show that the establishments put down by the Executive, instead of being connected with the patriots, and the real patriot cause, were establishments of pirates and robbers. As to the petition, Mr. P. said it was enough for us to manage our own affairs without meddling in foreign matters, nor ought we to allow foreigners to interfere in our affairs. He cared not whether this self-styled agent was really so or not; had such a petition been presented by an American citizen he would not receive it, unless accompanied by a motion to impeach the President. If gentlemen wish that, let them, said Mr. P., come forward openly, and not cloak the design under a memorial from a Venezuela agent; nor receive from that agent a philippic, whose only object could be to inculpate the conduct of the President. Mr. P. asked if the House could take on itself judicial powers, and go into an investigation of the rights of property in Amelia Island? This inquiry, he said, belonged to the Judicial department, and the House could not take it up, unless as the ground of a motion to impeach the President. This was one of the most impudent applications, Mr. P. said, that was ever made to

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any branch of this Government; and, had it been made by a regular accredited Minister, Mr. P. declared he would have voted to send him out of the country. What, he asked, had been the conduct of Don Onís? He had presented himself to the nation under an anonymous signature, on the conduct of the Executive in taking possession of Florida, as far as the Perdido, but he had never thought of presenting himself before this House for an investigation into that measure; he had appealed to the nation in a pamphlet, but his pamphlet had been totally disregarded. Mr. P. referred to the case of Mr. Jackson, the English Minister, who had been dismissed by the Executive for disrespectful language, which step had been approved by the nation; and asked if, after that, this House would receive respectfully an impudent philippic against the President from an unaccredited foreign agent? Such a course would be degrading to the House, as well as to the Executive. In reply to Mr. TUCKER, Mr. P. said, this petition might be rejected on the showing of the petitioner himself, because he came forward as a foreign agent; and from such a source a petition could not be received. The House could just as well, Mr. P. said, take an essay from a partisan newspaper, and refer it to the Committee of Foreign Relations, as to refer the paper now presented, and one, too, so abhorrent to the feelings and dignity of the House.

Mr. PINDALL made a few remarks in reply to Mr. TUCKER. If the petition was received, Mr. P. said, it necessarily admitted that the southern republics were not sovereign; if this was admitted, then these people were pirates, and the House might next receive an application from them to change the laws against piracy. As to the pamphlet of Don Onís, which had been referred to, he had read it, and was willing to treat this petition as he had treated that—to take no further notice of it.

Mr. MILLS, of Massachusetts, said, the right of petition was a sacred one, and belonged equally to the meanest and the greatest citizen in the nation; and if such a petition as this, implicating the conduct of the Executive, had been presented from the meanest citizen, he would receive it, and if it complained of grievances, without pointing out the redress, it would be the duty of the House to give the proper redress; but it was to our own citizens only, Mr. M. said, he would turn this listening ear. What right had a foreign subject to petition this House? No matter whether a private man, or the agent of a foreign Government, recognised or not recognised, he had no right to lay his grievances before this House. If this be permitted, then, said Mr. M., we may receive petitions from the suffering people of Ireland, or the people of any other country, to exercise our power for their relief. In this Government, Mr. M. said, the powers had been distinctly distributed, and there was a proper channel designated, through which foreign agents were required to make their communications; that channel was the Executive, and the Executive could as well interfere in the Legislative de-

partment as this House could interpose in the Executive duties. This agent said he had applied to the Executive without receiving satisfaction; suppose he had, and suppose, said Mr. M., the President had treated him improperly; admit all this to be true, shall we be told of it by this foreign agent? Shall we listen to his complaints, and permit him to call on us to punish the President? No, sir, said Mr. M., that is the business of the members of this House. As to the authority of this agent to ask an investigation into the rights of property at Amelia Island, he did not appear, Mr. M. said, to be an agent on the part of the persons lately holding possession of that island, nor had he offered any evidence that he was their agent.

Mr. BALL, of Virginia, said, the President might have acted correctly in this affair, or he might not. This was not the question. The question was, whether the House would receive this petition, and thus cast an indirect censure on him for his conduct. If the Executive had acted wrong, no one, Mr. B. said, would sooner call for an inquiry than himself; but shall we, said he, be instigated by this foreigner to go into an investigation of the Executive conduct? The petitioner styled himself a foreign agent, and that was a sufficient reason for not receiving it. The agent did not appear to be acting on the part of individuals, as there were no names signed to the memorial. He claimed to be the agent of a foreign Government; he had applied to the Executive, now to this House, and he might perhaps next appeal to the people. This, Mr. B. said, had once been done, but he hoped it would not be now tolerated.

Mr. JOHNSON, of Kentucky, observed, that it was not his purpose either to vindicate or abuse, the people who had been mentioned; nor should he reject the petition because it was likened to a partisan newspaper publication. Neither would he oppose it from a fear that it might be considered as an act of opposition to the President; the character of that venerable and respected citizen was not implicated in this matter, and the feelings entertained towards the President were not, therefore, involved in this question, though he was glad to find that it had brought forward a vindication of the Executive conduct in the case alluded to. Whenever that conduct should be brought before the House in a proper manner, Mr. J. said, he should enter into the inquiry without regard to any considerations but those of truth and justice. The present petition, Mr. J. said, was a claim for property alleged to be unjustly seized by the troops of the United States. How was this a philippic against the President? He cared not whether such an application came from Old Spain or New Spain, from patriots or others; such a petition was entitled to attention. If this application had been made to the House before it had gone to the President, Mr. J. said he should have voted against it, as it might then have appeared disrespectful to the Executive. In this case he took the broad ground that, if the property was not given up, we ought to pay for

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it, whether the people from whom it is taken be patriots or not. He did not contest the right of the Executive to suppress those establishments; the present was a contest about property, and how could the President pay for it without the interference of Congress? In the case of Beaumarchais it was thought proper to send a message, recommending it to the consideration of Congress, and this after several of the Secretaries and other officers of the Government had declared that the claim was unfounded; but in this case, where property is held by the troops of the United States, and a person comes forward for redress, it is called a philippic against the President! Instead of viewing it in this light, Mr. J. said, he acted in this matter on the principle of friendship to the President. He denied that there was any ground to say that this petition was a tissue of falsehoods; all petitions bore *prima facie* evidence of being true until inquiry should prove them to be otherwise. This had not yet been investigated, and ought to be considered as true until it was. Mr. J. said he should be glad to see any difference pointed out between this petition and the claim of Beaumarchais, the petition of the Irish emigrants, or that of the Swiss emigrants, none of whom had even pretended that we had injured them, or had their property in our possession. Why this feverish feeling in the present case, Mr. J. asked. For his part, he wished the President had gone on, and from Amelia had passed on to all Florida. The receiving this petition involved no hostility to the conduct of the Executive in that measure.

Mr. RHEA deprecated the latitude by which the discussion had been marked, and called the attention of the House to the true question; which was, simply, whether this remonstrance from the agent of certain foreign authorities should or should not be received. This, he said, was a question which had nothing to do with impeaching the President, or with piracy on the high seas. He knew nothing of the persons whose agent the petitioner was; as far as he had heard anything of them he respected their characters. But they were stated to be agents of a government yet unacknowledged by the United States; and, under such circumstances, he did not think this House ought to recognise them. As to this being a question of property, he said he did not view it in that light; but conceived that property had been introduced into the memorial only to give a color to the other objects it had in view. This whole business was one, he thought, which it was for the executive part of the Government alone to act on. The House of Representatives have not been in the habit of receiving foreign ministers or ambassadors, said Mr. R. If we are to undertake this business, let us see the commission of the agent, and ascertain whether he be duly authorized or not; whether he be what he states himself to be. Without such a preliminary, any proceeding of the House would be illusory. The previous question must be, the recognition of the independence of the governments whom he represents; until that was decided all other proposi-

tions must be foreign to the subject. As to this question of property, which was said to be embraced in the memorial, how long, Mr. R. asked, had the Government of the United States been endeavoring, by reclamation, to get from the Governments of France and Spain property captured by their national vessels from our citizens? But had our applications not always been addressed to the executive authorities of those nations? Had this House a right, he asked, to receive an agent from these new governments, or from any government? The Constitution had given this business to the Executive—this House had nothing to do with it; and he did not wish to encourage appeals, either to the people or to this House, from the Executive by any foreign agent. The Constitution has assigned to each department of the Government its particular duties; and, for his part, he would not for a moment listen to a memorial which was in the nature of an appeal from one branch of the Government to the other. In the mean time, however, he would treat this memorial with all due respect, and would not certainly bestow on it harsh names. The best way would be to suffer it to be withdrawn. But to this course it had been objected, that this foreign Government would not know *why* the memorial was not received. The very face of it, he said, would sufficiently show why it was not received, nor even suffered to lie on the table, because to lay it on the table would imply that the subject was one which might be acted on at a future time. Every government must know that it is the President who is to receive all communications from foreign governments, and that the Legislature has no concern with them. This, Mr. R. repeated, was not to be regarded as a memorial respecting property; the truth was, and it was no use to conceal it, that this agent wished to have the authorities whom he represented recognised as a sovereign State. This was the main object of the application, and it was proper it should be understood. When that question was properly presented, Mr. R. said he had no objection to act on it—but not in this way. He concluded by saying he hoped the memorial would not be received.

Mr. STROTHER rose to inquire whether a motion to lay the memorial on the table would be in order. He considered this an important question, involving great difficulty; and, not being much of a politician, he was averse to acting hastily on it. If this was to be regarded as a petition of an individual for property, it ought to be received; but how far this House had a right to listen to an appeal from a foreign agent, he was not prepared to say. If the question turned on this point, it was one of the first magnitude, and required the most mature reflection and the most severe investigation. After intimating that he had not been in the House when the petition was read, Mr. S. said, if it was from individuals whose property had been seized by the forces of the United States, at Amelia Island, they were, having been deprived of the protection of their own Government, emphatically entitled to the

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protection of that Government which had obtruded on the management of their affairs, and taken possession of their property. If this petition were considered as that of an individual, charging our Government with oppression, he was disposed to give it countenance; for there was no other Government to whom application could be made for a redress of such a grievance. If such a memorial were not accepted here, there was no tribunal on this side the grave to which an appeal could be made. This was a strong reason, Mr. S. said, to induce him to vote to lay this memorial on the table. If, however, the memorial was considered as emanating from a person assuming the character of an agent from a foreign Government, he was decidedly opposed to receiving or considering it; because the Constitution had provided a department authorized to accept or reject all applications of that description, and it did not become the House, by transgressing the bounds of its Constitutional authority, to interfere with the rights of those inhabitants of North America more dear to us than the mixed population of South America. If it were proper for this House to interfere at all, either in recognising the independence of the South American Provinces, or in protecting them from the acts of the Executive, Mr. S. said he should not hesitate to do so from deference to any other authority; no influence which could be employed, should turn him aside from the path of duty prescribed by the Constitution of the land, and by his own conscience—at the same time he was inclined to treat with respect every department of the Government. On this matter, said he, let us act dispassionately. In this country, where liberty is so dearly cherished, that the very sound of the word comes home to every bosom, we are bound to presume that the Executive organ leans with a natural partiality to a cause to which is attached the idea of liberty, of a struggle for the right of self-government. But Mr. S. said, he should not at this time commit himself, in relation to the patriots, to Old Spain, or to the Executive of his own Government—it was time enough when the question presented itself. But, he said, his friend from Kentucky (Mr. JOHNSON,) whose sentiments he always respected, whose noble animation in the cause of liberty and humanity struck him with admiration, had, he thought, improperly referred to the conduct of the Executive of the United States, as said to be involved in this inquiry. Mr. S. denied the application of this suggestion. If such were the fact, and whenever such a question was presented to him, he would not, by the rejection of the memorial, screen any functionary from censure; no respect for individual character should stand in the way of his pursuit of correct principles. Mr. S. wished for time to examine the subject, and the powers of this House. He wished to examine whether the House were not darting madly from its sphere on this occasion, under the influence of feelings excited by a cause which was, he acknowledged, entitled to attention. If the petition were from an individual for relief from injustice suffered under an act of our

Government, which some had so much reprobated, (justly or not he would not now say,) he would administer relief, because this was the only body to whom application could be made for it. But if it were a memorial from a professed agent of a foreign Government, it was a delicate inquiry how far, by receiving it, the House would overstep its duty, violate treaties existing with other Governments, or commit the peace of our own; it was an inquiry to be proceeded in with deliberation, with a slow but certain step. He had heard something insinuated about some influence bearing on this question—it was the idle wind which passed him by, and he heeded it not; it was a thing much talked of, but not felt—a spectre exhibited to alarm the House, but existing only in the imagination of those who called it forth. We may declaim on other topics, said he; but, rest assured, the step you are asked now to take may hazard the peace and prosperity of our country, so much loved. Rely on it, said he, there is a germ in this proceeding which, if fostered, will spring up like the upas tree, and poison all around it. As an inhabitant of Amelia Island, if the petitioner asked indemnification for loss sustained by our act, Mr. S. said he felt towards him a paternal solicitude, and desired to see justice done him. On the other hand, as a remonstrance from a foreign Government to this House, against the conduct of the Executive, he regarded the question of receiving the petition with an awful interest, and desired time to consider it. He therefore moved that the memorial be laid on the table.

The SPEAKER having decided this motion not to be in order, pending the preliminary question on the motion for refusing the reception of the memorial;

Mr. BASSETT moved to lay that preliminary question on the table; which motion having been received by the Chair—

Mr. ROBERTSON, of Louisiana, said, that he was prepared to act on the memorial at once. He thought that it ought to be received, and to pursue the course of other memorials. Many topics had been introduced on this occasion, he said, that had no relation to this question, which involved no implication of the Executive. The true question he took to be, whether there was matter contained in the memorial, on which the House could act in its Constitutional sphere—whether it presented an application respecting property, which, after the usual investigation, this House might countenance or reject. What are the facts? The United States had taken possession of Amelia Island. In respect to Galveston, in regard to which something had been said, he took occasion to state, that nothing had been done by the Government in regard to that position. Suppose the Government to have been right in occupying Amelia Island, they had not gone so far as to denounce as pirates those whom they dispossessed, but had considered them as unauthorized individuals; for, if they had been regarded as pirates, the Government would not have given up to them their vessels to pursue their

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piratical course on the ocean, but would have treated them as such. But, Mr. R. said, the Government had not considered them as pirates. When the Government of the United States took possession of Amelia Island, it was in possession of Aury, Gual, Pazos, and others. The occupants had formed a government, and elected a legislature and other officers, of whom the individual presenting this petition was one. With another of them, (M. Gual,) Mr. R. said that he was acquainted; and a more honorable man he never had known, from what he saw of him during his residence some time ago in this city. The decorum of his conduct in the best societies had procured him universal respect. That gentleman, he believed, did not merit the appellation of *pirate*. He was a gentleman of education, of good family, whose respectable father died in the service of his country, and his son came to this country to endeavor to obtain aid in the same great cause of liberty. Finding that he was not acknowledged as an agent, he had joined with others in the taking possession of Amelia Island, with a better view than that of pirating on the commerce of the United States, or of smuggling. A very little attention, Mr. R. thought, would show that that position promised benefits to the patriot cause of the South, by affording a naval depot, &c., which no other could have afforded, and that it was not proper to apply the term *pirates* to those who captured it. But the Executive of the United States had conceived that possession of that island by these authorities was incompatible with our rights, and led to a violation of our laws with respect to the introduction of slaves; though it ought to be recollected that they never had been engaged in the slave trade—the Spaniards and Portuguese alone having been engaged in that nefarious traffic. But, the Government having taken possession of that island, and of the property of these individuals, what means of redress was left for them? Could they go into a court of justice? Had the Government of the United States established a government in Amelia? In what situation were the people of that country? Were they in possession of the rights of American citizens, or were they subject to military government? If so, in what way were questions of property to be tried there; or how otherwise adjudicated than by authority of an act of Congress? The individuals who formed the enterprise against Amelia Island, Mr. R. added, were not pirates: they were authorized, as during our Revolution our agents in France and elsewhere were authorized, to grant commissions to privateers—the Governments they represented having, like ours at that time, declared independence. Owing debts in this country, and deprived by the act of our Government of the means of paying them, they had submitted this point to Congress. Could not Congress take into consideration the propriety of appropriating to their use that property which our Government had wrested from them? This, Mr. R. said, was the question. Whether the individual petitioning should or should not be recognised as an agent of these

authorities, was a question not now to be decided, but after the petition should be received and considered.

Mr. COLSTON rose merely to obviate an impression which might have been made by the course he had already taken in this discussion. He had asked for the reading of this memorial, only for the purpose of obtaining information, and in order to be able to vote with a full understanding of the question; because the petition might have been from an individual for the restoration of private property taken at Amelia Island. In the course he should now take, he said, he was not prompted by any particular respect for the gentleman who fills the Executive office—for he really did not feel it—but he had a respect for the office. The memorial was either from an individual claiming relief, or from the agent of a foreign Government. If considered as from a private individual, the memorialist acted in a character he had no right to assume; if considered as an agent of a foreign Government, it ought not to be received. He would not say that there may not be cases in which a memorial from a foreign agent might with propriety be received here; for he would receive one from the Prince Regent of Great Britain, or any other foreign authority, on a proper occasion; but he would not entertain a petition from a foreign agent calculated to sow dissensions among this people, and in the nature of an appeal from the Executive to the people. He therefore felt himself bound to vote against receiving the memorial; but, if a petition were presented for relief in this case, free from improper imputations on the Executive authority, &c., he had no hesitation to say he would receive it with pleasure.

Mr. FORSYTH said he hoped the House would not agree to permit this memorial to lie on the table. The gentleman from Virginia, who had not heard the memorial read, would find, on referring to it, that this person presented himself to the attention of the House in a public capacity, as a Representative of a political body, claiming indemnification for injury sustained by acts of our Government, after complaining of its conduct. The question, then, for the House to consider was, whether, when the Constitution has placed the conduct of our foreign relations with the Executive, a foreign agent shall be permitted to appeal from the Executive to this House? Will you, said Mr. F., permit him to suppose that the Executive of the United States, the agent of the people of the United States in this respect, has acted in a manner contrary to the wishes of the people or of their Representatives? What were the questions, he asked, which a consideration of this petition would present? Why, these: Has the conduct of the Government been correct? Has it been such as to demand the restoration of the property taken at Amelia Island? These, he said, were questions, to discuss which would be to enter into the whole scope of our policy in respect to our foreign relations. What could the House do? Could they reverse the proceeding complained of? If

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you differ from the Executive in regard to the policy which had been pursued, said he, you can only express your opinion to that effect by resolution; and I ask if this House will permit itself to be required to do this by the agent or representative of any foreign nation, independent, or claiming to be so? Though not then arrived at manhood, Mr. F. said he well recollected the sensation once excited throughout the country by the menace of an appeal by a foreign agent from the Executive to the people of the United States. The neutral policy of the United States at that day, in regard to the French Government, was obnoxious to the Directory; and their agent here threatened to appeal to the people from the Government. What was the consequence? That man, who was previously very popular in the United States, became an object not only of suspicion but of contempt. His popularity, great as it was, had not been able to withstand the shock produced by the mere threat. Here, said Mr. F., we have in this memorial not a threat merely, but a threat carried into execution; and we are called upon to be the instruments of this agent of a foreign Power, to carry his appeal from the constituted authority to the people of the United States. Mr. F. said he was not the apologist of the President of the United States, or of the administrators of the Government; he cared not, in his conduct as a member of this House, either for their feelings as individuals, or for their characters as public officers. In the decisions of this House, the members would regard no such considerations. But it was due to themselves and to the Government which the people have framed not to suffer questions to be raised in this House by any foreign agent touching the conduct of the Government of the United States in any of its relations. The case of Beaumarchais, which had been referred to, had no analogy to this. He having petitioned Congress for payment of a private claim, and having been refused, had asked the aid of his own Government. How had that Government afforded it? Had the French Minister dared to insult this Government or people by applying immediately to this House in the name of his sovereign? No; that Government knew the proper mode of proceeding, and applied to the Constitutional organ, the Executive. In the present case, it ought to be noted, the memorialist did know the proper course, and had applied to the Constitutional organ of intercourse with foreign Powers; he had not been satisfied, however, with the answer—the policy of the United States had not been agreeable to him—the Executive had refused to do him justice, he thought, and therefore presented himself to this House. If the President have done wrong, said Mr. F., it is a question for our consideration and on which we ought to express our opinion, but in a proper manner, and not at the instance of the agent of a foreign Power. From a respect to ourselves, and to the Government of our choice, Mr. F. said he would neither consent to lay this memorial on the table nor to receive it.

Mr. SERGEANT said it was due to the Govern-

ment and to the nation not to receive the memorial. It would be seen, on reference to the memorial, that M. Pazos had come to Congress because, as he said, the Executive had not done him justice. It was therefore a direct appeal from the Executive to Congress, and an appeal grounded, not on the defect of authority in the Executive, but one which, admitting the authority of the Executive for what had been done to be full—and nobody had questioned it—called upon Congress to reverse the proceedings and undo what the Executive had done. Whoever would look at the memorial, would find that the property seized was in itself nothing in the view of the memorialist, and scarcely entered into the scope of his appeal. Mr. S. referred to the concluding clause of the memorial, in which reliance is expressed that this House will give a dignified support to the Republican cause, &c. All this was preceded by a statement, such as this individual had thought proper to make of the course which had been taken in regard to Amelia Island, and by complaints not of the conduct of the Executive only, but of the admiralty court; so that the House, to comply with the prayer of this petition, must revise not only the conduct of the Executive, but that of the judiciary also. It was, therefore, a direct appeal from the Executive to the House. Now, Mr. S. laid it down as a principle, that, in respect to foreign Powers, and the agents of foreign Powers, it was the duty and the interest of this Government to present itself as an entire Power; that foreign nations should never be permitted to know this Government but in its integral character. The consequence of a different course would be, that, whilst the Constitution of the United States intrusts to the Executive the conduct of our relations with foreign Powers, we should, if the precedent now sought were established, have every foreign minister thus going the round, and exciting the one branch of the Government against the other. Every one must see that the effect would be to destroy the harmony of our Constitution, and eventually the body politic. And, if failing of success with the departments of the General Government, why not, on the same principle, apply to the Legislatures of the States, and by that means attempt to overrule the decisions of the proper departments of this Government? Mr. S. hoped, he said, it would be understood that he did not mean to touch on the topics introduced into this discussion, for or against the persons whose agent the petitioner professed to be; that was a matter which might in various ways be brought forward, and indeed notice had been given that in a proper manner it should be brought to the view of the House. But, said Mr. S., shall the agent of a foreign Government come into this House, and ask us to give a sincere support to the cause he is engaged in, by overthrowing everything that has been done by the Executive? We are not competent to this course; for, if we are to hear representatives of foreign Governments on one side, we must hear representations also on the other; and, instead of performing its legisla-



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tive functions, Congress must erect itself into a tribunal for deciding controversies between nations. If any individual within the territory occupied by the forces of the United States, has thereby sustained injury, let him come forward. Such, however, Mr. S. said, was not the present case, the memorial not asking for a single farthing of indemnification for any individual whatever; but the House was asked to restore the military stores, means, &c., which had been found at Amelia, so that these authorities may carry on the war as effectually as they say they could have done, but for the taking possession of their position by the United States. In other words, said Mr. S., we are called upon to review the whole question, avowedly for the purpose of giving these authorities support, and of putting them again in possession of their entire military force, &c. This, said he, is a course totally inconsistent with the spirit of our Government. However we may differ among ourselves; however we may distribute power among the different branches of the Government; however we may think of the individuals who administer those various departments; yet, when we come to establish rules of conduct, by the observance of which this Government may be hoped to be transmitted unimpaired through a long succession of ages, it will be found that we must, on all occasions, present ourselves to foreigners as an entire body, reciprocally supporting each other—a body, which, when it undertakes to reprimand or chastise its officers, or reverse their proceedings, does it for its own sake only; a body, the component parts of which do not fly from their sphere for the purpose of jostling each other, to give effect to any feeling.

It was obvious that there was on this subject a great deal of feeling; but that did not justify the reception of this memorial. It could not be received for another reason; for the very first step must be to examine the credentials of this petitioner, and of those under whom he acts; whether M. Pazos is deputed by those authorities he claims to represent, and whether they act by proper appointments of their respective Governments. This was an insuperable difficulty. If the petitioner had presented himself as an individual, the case would have been different; but it would be extremely difficult to reduce the pretensions of this memorial to such a size that it could be sent to any committee. For this reason, Mr. S. said, he would not receive this petition, though he would not show it further disrespect. He was willing to say that a mistake had been committed in offering it; but he could not well see how that plea could be made out, for the House ought not to lose sight of the fact, that this agent knew where he ought to apply, and, with that knowledge, after being refused, had come into this House for redress. To show this case in a stronger light, Mr. S. referred to the case of a suggestion to Congress by the President, during the present session, of the expediency of a remission of certain duties improperly levied on British vessels under the commercial convention.

Suppose, said Mr. S., the Minister of Great Britain, styling himself as such, had come to this House with an application to this effect; should we have entertained it? Certainly not. Some allusion had been made to what had been called the Irish and Swiss petitions, presented and disposed of at the present session. Undoubtedly the gentleman who had made the allusion had been misled by names. Those petitions were from citizens and from individual foreigners residing within the United States, praying permission to purchase public land on certain terms. If they had formed themselves into a community, and, assuming a national character, had applied to Congress for a redress of grievances, their petition would not have been received. Those petitions presented questions of internal policy merely; and Mr. S. said he was sorry that they had been placed in a light which might be prejudicial to them, by confounding them with a case so totally dissimilar.

Mr. BASSETT said he had made the motion to lay the subject on the table, under the impression that the questions embraced in it were of too much importance to be acted on lightly, or to be evaded by a hasty refusal to receive the petition. As, however, gentlemen professed themselves prepared to act on the question, and had gone on to discuss it at large, he should not further oppose a present decision. He was not himself prepared to act on the subject. He could not help feeling surprised, he said, that gentlemen should attempt to assimilate this case with that of a foreign Minister, whose province was entirely different, whom it was the interest and duty of the Government to keep within the pale of his functions; and against whose aberrations the Government ought to present one front, because the Minister stands in the place of his Government. Was that the case with the present petitioners? No, said Mr. B., we reject them as Ministers, and they come before us as individuals. The right of individuals within the United States to petition for a redress of grievances could not be restrained by any power. What was the established practice of the House? That petitions, when received, are received without any other question than whether they be decorous or not. Whether they are reasonable or unreasonable, was not decided until the House had investigated the subject. This was the regular course; but, if gentlemen were prepared to act on the subject, Mr. B. said he would not stand in the way, and therefore withdrew his motion for laying the question on the table.

Mr. LIVERMORE said this was a question on which he had much doubt, and, although he had attended carefully to the debate, that doubt was not yet removed. It seemed to him, he said, that when a memorial was presented to the House, it was too late to take a question whether it should be received, it being in possession of the House. If so, the time of the House had been unnecessarily consumed. As regarded this memorial, Mr. L. said he was inclined to think it was for the interest of the United States to receive informa-

tion from all sources, and not to make distinctions whether it came from a proper or improper person. Might it not give information which it was proper for this House to possess? If it might, was the slight reading which it had received sufficient attention to be given to it? I have heard it read, said Mr. L., and am not alarmed at its contents; nor do I see why any gentleman should be alarmed at receiving a communication, because it is from a person who happens not to be very popular with us. Mr. L. was in favor of giving the usual course to the memorial; and could not see how the motion not to receive the memorial could apply, after the memorial was in possession of the House.

Mr. TUCKER rose, he said, to renew the motion of his colleague to lay on the table the proposition of the gentleman from Georgia. He had declared, when he was up before, that if this paper contained no application on the subject of a private claim, he should not hesitate to reject it as the appeal of a foreign agent to this body from the Executive. But, as well as he could understand the paper, as read by the Clerk, under the usual disadvantages experienced here, he had supposed it contained private matter. While attending to gentlemen, he had no opportunity of examination. Should he be satisfied, on examining the paper, that the claim in relation to the property taken at Amelia was not on the part of individuals, he should unhesitatingly vote against its reception. Should the motion not be laid on the table, he should be compelled to vote against the proposition to reject, to enable him to obtain further information.

Mr. COBB expressed his hope that this motion would not prevail. He was obliged on this occasion, as on a former, to differ from the gentleman from New Hampshire, and express his hope that this and all such petitions would be rejected. What sort of an example, said he, are you about to set? His colleague had correctly stated the excitement which had been heretofore produced by a threat of an appeal by a French Minister; this was a parallel case, except that this Minister is not accredited—a petition from a foreign agent, having no other object, that could be discovered, than to complain to Congress that the President had not done him justice. If this appeal were permitted, he should expect it soon to be followed by another, for it was rumored that a very brisk intercourse had recently taken place between the Executive and the agent of another foreign Power; and, receive this memorial, said Mr. C., and you may expect to receive the pamphlet of *Verus* vamped up into a petition, unless the correspondence which has taken place shall have been entirely satisfactory to the Spanish Minister. Permit me to say, that I consider not only the conduct of Genet, and the publication of the pamphlet of *Verus*, but this petition also as pieces of impudence. As to this memorial, laying aside other considerations, and not noticing its contents, he wished it to be rejected on the simple ground of its being an attempt to appeal from the decision of the Executive to this House on a

matter between the United States and a foreign Power.

Mr. FORSYTH added a single remark, that if, as the gentleman from Virginia suggested, this memorial might contain private matter which ought to be received, it could not be separated from what was objectionable. The refusal to receive it could produce no injury to the individual, because if he was employed as an agent to apply for the restoration of private property, if any, taken by authority of the United States, it was easy to present that object in a proper shape, and no doubt the House would pay due attention to it.

The question was then taken to lay Mr. FORSYTH's motion on the table, and negatived by a considerable majority.

The question recurred on the motion that the memorial be not received, and was decided in the affirmative—yeas 127, nays 23, as follows:

YEAS—Messrs. Abbott, Adams, Allen of Vermont, Austin, Baldwin, Ball, Barbour of Virginia, Barber of Ohio, Bateman, Bayley, Beecher, Bennett, Boss, Bryan, Burwell, Campbell, Clagett, Claiborne, Cobb, Colston, Comstock, Cook, Crafts, Cruger, Culbreth, Cushman, Darlington, Drake, Earle, Edwards, Elliott, Ervin of South Carolina, Folger, Forsyth, Gage, Garnett, Hall of North Carolina, Hasbrouck, Herbert, Herkimer, Hitchcock, Hogg, Holmes of Connecticut, Hubbard, Hunter, Huntington, Irving of New York, Johnson of Virginia, Kirtland, Lawyer, Linn, Little, Lowndes, McLane, W. P. Maclay, McCoy, Marchand, Marr, Mason of Massachusetts, Mercer, Merrill, Middleton, Mills, Moore, Morton, Moseley, Murray, Jeremiah Nelson, H. Nelson, New, Ogden, Ogle, Orr, Owen, Palmer, Parrot, Patterson, Pawling, Peter, Pindall, Pitkin, Pleasants, Poindexter, Reed, Rhea, Rice, Rich, Richards, Ringgold, Robertson of Kentucky, Ruggles, Sampson, Savage, Sawyer, Schuyler, Scudder, Sergeant, Settle, Seybert, Shaw, Sherwood, Silsbee, Simkins, Slocumb, S. Smith, B. Smith, Alexander Smyth, J. S. Smith, Speed, Stewart of North Carolina, Stuart of Maryland, Tallmadge, Tarr, Taylor, Terrill, Terry, Tompkins, Townsend, Tyler, Wallace, Wendover, Williams of Connecticut, Williams of New York, Wilkin, and Wilson of Pennsylvania.

NAYS—Messrs. Anderson of Pennsylvania, Anderson of Kentucky, Bassett, Bellinger, Bloomfield, Blount, Boden, Desha, Forney, Harrison, Hendricks, Johnson of Kentucky, Jones, Kinsey, Livermore, Munford, T. M. Nelson, Porter, Quarles, Robertson of Louisiana, Southard, Spencer, Strother, Trimble, Tucker of Virginia, Tucker of South Carolina, Walker of North Carolina, and Whiteside.

So the House determined that the petition be not received.

#### INTERNAL IMPROVEMENT.

The House again having resolved itself into a Committee of the Whole, on the subject of the report of the committee respecting internal improvement—the question being that the Committee rise and report to the House the resolutions which have been agreed to—the debate was resumed on the main question.

Mr. SAWYER, of North Carolina.—If my opinion should correspond with the President's, I shall

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not think the worse of it on that account. I do not intrench myself behind the President's veto, but as the gentleman from Kentucky (Mr. CLAY) has placed me there, I am perfectly satisfied with my station. While I am defended by his shield, I shall feel safe from that gentleman's attacks. If it were any gratification to the gentleman to notice the applause with which the President was received in his Northern tour, I hope another opportunity may shortly be afforded him for a similar gratification in his Southern tour. Like the sun, I hope he will soon visit us, and cheer and enliven us in his annual course. I, for one, will be ready to hail his approach, and to give him a warm and hearty welcome, if for nothing else but the very course he has observed in regard to the subject now before us, and which other gentlemen have thought proper to condemn. I stated, on a former occasion, that, so far from feeling any repugnance at his interposition in the first instance, I was glad of it, as it was intended to save us all the useless waste of time and treasure, which this discussion would necessarily give rise to; and I am only sorry we did not improve the hint. It was for that reason I moved to postpone the subject indefinitely; for, as I anticipated the result, that there would not be a Constitutional majority in favor of it, I was unwilling to see the commencement of this wordy war, which has been waged for several days with unabated warmth, to the no small entertainment of the spectators, but very little, in my apprehension, to the settlement of this question, or the furtherance of the important business of the nation. And, although I may not be able to satisfy the gentleman's (Mr. CLAY) call on me for a Constitutional speech, yet I will promise him it shall not be an unconstitutional one, which is more than I can say of some speeches I have heard. On the constitutionality of this question, I stated that I did not think it worth while to enter into a discussion of that point, for I have too humble an opinion of my own powers, to expect to convince others; and if I can advance enough on that head to satisfy my own friends, as I can my own mind, of the propriety of the vote which I shall give, I throw my javelin of hope no farther. I have a sufficient reason to satisfy my own mind, on the ground that there is no Constitutional provision delegating this power to Congress; if there be, let those who assert it point it out. Do they expect to show it by a long course of argument? I, who have sworn to support the Constitution, must have something to satisfy my conscience more positive and express than any labored attempt at a constructive power, by so fallacious a method as argumentation. Nor shall I feel satisfied with the production of precedent. Precedent, without law, has no weight with me. If other gentlemen have thought the right Constitutional, that is no reason I should; for that would be to make others' consciences the standard of mine, which I will never do in politics nor religion. I must have a proof so clear, that there can be no hook or loop to hang a doubt upon. Did I understand some gentlemen to say, that the General Government

could and ought to exercise this power without the consent of the States? Such language would be more suitable to that of Nero to a Roman Senate, than the occasion to which it was applied the other day by the gentleman from Virginia, (Mr. MERCER.) Strike out the words in the resolution, "with the consent of the States," and undertake to enforce this high-handed doctrine, and the Constitution will be in a fair way to be cured of that plethora, the gentleman from Kentucky (Mr. CLAY) spoke of; for, if it requires depletion, it will, most assuredly, be let blood. If such a violent course as that be attempted, I apprehend it will be met with more substantial arguments than any used here; and those who may come with their axes, spades, and shovels, to tear the virgin bosom of our country, in defiance of us, may find themselves forced to intrench themselves behind the first bank they throw up—for the very first hole they dig may prove the grave of some or others of us. Should my State unfurl her banners, I, for one, would plant myself under them, and resist, till the flesh were hacked from my bones, before I would submit to such despotism. If the States have a mind to cross their arms, and suffer themselves to be tied and bound together in this cord, like a knot of slaves, let them; but while our hands are free, I trust we shall use them in defence of our rights, from whatever quarter they may be invaded. I was born free; so have I lived: so will I die. It is true the gentleman from Kentucky stated, it might be prudent to obtain the consent of the States; indeed I think it would.

Under what clause of the Constitution is this right conveyed? The tenth article of the amendments declares, that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States themselves, or to the people. This question resolves itself into a syllogism, and they must first prove the major and minor, before they draw the conclusion; they must show, that the power is delegated to the United States, or it is prohibited by the Constitution to the States, or the catastrophe must follow that it is reserved. Perhaps it may be looked for in the first clause of the eighth article, under the terms "general welfare." Now, what would a plain, unsophisticated man say was the meaning of the terms "general welfare?" Political health, the full enjoyment of the Constitutional faculties of all the States; for it is a relative term, and means no more than that the General Government should have a watchful eye over the common weal, and see that each member of it enjoyed that portion of political sanity, and maintained that true course in its revolution around its own axis, imparted to it at its creation. They have all hitherto existed and flourished under this wholesome and Constitutional protection of the General Government; nor do they now see any occasion for the display of this extraordinary and officious care, proffered to them by the resolutions on the table. They have gone on very well in their old course—and, I think, they would

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rather dispense with this uncommon solicitude on the part of the General Government for their general welfare. Enjoying a good share of health, they see no necessity of being obliged to swallow poison to keep them in good plight, because the master or family physician may prescribe it. I have heard of persons being killed with too much care; and, I believe, it has fared with States as with individuals. Augustus Cæsar, out of a kind concern for the welfare of his country, generously took the management of it into his own hands. Oliver Cromwell promoted the general welfare of England by a similar operation; and, in modern days, Bonaparte manifested the same feeling, and extended the same fostering hand over his countrymen. I only hope this is the last practical commentary I shall ever witness upon the text of general welfare.

Let us examine the 8th section of the 1st article: to establish post offices and post roads. On this head, the gentleman from Kentucky (Mr. CLAY) admitted there might be a concurrent jurisdiction, and that the principle might be pushed so far as to produce collisions between the States and the General Government. Does not this prove that the right is not clearly delegated to the United States? For, if it was, this collision could not take place. There is no collision between the parties in the exercise of other delegated powers. The instance the gentleman puts, of an excise, on the same article, by the States and General Government, is not applicable to the case, because the jurisdiction of each might be complete and independent over the subject, and that of the General Government is expressly given. The Constitution does not grant power by halves; when it professes to make a transfer of power, it does it completely and absolutely. The idea of the United States keeping the roads in repair, and, at the same time, leaving murders and other offences committed to them to the punishment of State courts, is entirely irreconcilable with the power and jurisdiction of the United States in analogous cases. Murders committed in forts and arsenals are exclusively under the cognizance of Federal courts; and if the United States had jurisdiction over post roads, their tribunals would be equally and exclusively paramount.

A great display of etymological learning has been afforded on the word "establish." The gentleman from Kentucky has contended for its meaning to be, to make and construct. I cannot think it can be tortured into such a meaning in regard to roads. Its true meaning will be found in its application to the nature of the object expressed. Thus to establish post roads, is merely designating the transportation of the mail by a certain route. If the framers of the Constitution meant, that Congress should make and construct roads, they must have said so in as many words; because, they could not have found any other words expressive of that intention. When a new road is about being made, the common definition of the operation is to run or to cut, but never to establish. How could they mean, to make and construct roads, when they were already made

and constructed under the authority of the several States?

This question has been already so much debated, that I shall not detain the Committee with such other reasons as occur to me on the Constitutional points, as I merely meant to show, that I, at least, entertained doubts on the subject. When I once doubt upon a Constitutional question, I cannot give it my support, particularly when it is for the assumption of power into my own hands. Nor are these doubts to be removed by the uncertain deductions of argument. When I hear a speech of an hour, attempting to prove a Constitutional point, I naturally begin to have my doubt about it; and several speeches, of two or three hours each, with the same view, may remove them, but in a very different manner from that which the Speaker intends; for, if the power be granted, why all the pains to show it? It is only necessary to turn to the clause, and, if it be there, we have ocular demonstration, and the question is decided. But I have seen so much of the fallibility of human judgment, and of the erroneousness of argument, that I begin to admire the policy of some of the kingdoms that Gulliver visited, where, after a politician had made a long speech in favor of a certain proposition, he is forced to turn about and vote directly contrary.

A few words on the expediency of the resolutions. As to the detention of the Western mail for several days, which the gentleman so feelingly describes, whose fault is that? If the ways of the Western people are so bad, it is high time for them to mend them. Do the people of Kentucky mean to look on and see the other States making turnpike roads, and expending their wealth and industry in improving the face of the country, and then call upon the General Government to furnish them with means to make similar improvements? Do they wish to tax other States to make their turnpike roads and canals? If the gentleman's wagon stick in the mud let him apply his own shoulders to the wheel before he calls on Hercules. Look at New York, and behold the noble work she is engaged in. See Jersey, Pennsylvania, Maryland, and other States, intersected with turnpike roads and canals in every direction. Would it be fair, now that they have made such progress in these works, by their own means, that their money should be taken out of the common stock, and given to other States, who have supinely looked on and made no exertions?

The gentleman from Kentucky (Mr. CLAY) has told us of the constant stream of wealth which has flowed from his State into the Treasury, without one drop stopping by the way to enrich the soil. I can say the same of my State, with the addition that it flows through channels dug by her own hand. Suppose the gentleman was to obtain a repeal of the list of acts which he enumerated, concerning the facilitating our commerce of the ocean by the erection of light-houses, buoys, &c., who would he injure most by it? Is not the trade of Kentucky as much ben-

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edited by the patent reflecting lamps of Lewis as any Eastern State? How are the productions of the West to obtain a market, unless through the usual channels? These are the necessary means and instruments for regulating our trade, indisputably vested in Congress by the 3d article of the 8th section of the Constitution, and which Kentucky is as much interested in as North Carolina, or any other State in the Union, of equal population. But, the gentleman, arguing in favor of the expediency of the measure, confessed, that however expedient, unless Constitutional, it would not be proper to grant the power; and I am so convinced of the inexpediency of it, that I could not vote for it, if I had no doubts about the constitutionality of it, and if I should hereafter be in favor of the only proper way to effect this object, a Constitutional amendment, it will be upon the contingency of a conviction of its expediency. We cannot now afford to make these advances, to spare the money required by this measure. I am not for giving away our money until we have paid off our national debt. We owe one hundred millions of dollars, together with a large amount of private claims, and when they are paid, and we have more money in the Treasury, than we know what to do with, I shall have no objection to let it be expended in the manner proposed, under a Constitutional amendment; but, at present, I think the nation would be more benefited by this money remaining in the Treasury, than any use it could be put to for internal improvement. The greatest improvement of the nation would be to fill its coffers. Let our improvement, like charity, begin at home. Never let us forget the straits we were put to last war for want of money, and which drove this nation to the very brink of ruin. We don't know how soon we may be involved in another. I think it behooves us to improve and to take care of our resources, and be always ready for the worst. At any rate, we should be just, before we are generous, for, besides the national debt, there are private claims on your table to an incalculable amount, and if only a comparatively small portion of them are allowed, it will make a sensible diminution of the balance in the Treasury. The gentleman from Virginia (Mr. TUCKER) seems to apprehend a great deal of difficulty about the disposal of our surplus money. If he will only wait until the end of the session, I promise him an end of his difficulties on that head. Our conduct puts me in mind of the Kings of Sweden and Denmark, when, an island rising up between them, each claimed it, and after notes of dreadful preparation between them to decide the title by arms, the island sunk into the sea again. Although this treasure is now floating above the surface of the Treasury, yet will it before long be swallowed up in the unfathomable gulf of private claims. Three Presidents have labored under the same difficulty with the gentleman from Virginia, and have recommended a similar disposition of our money, but the House soon found there was no necessity for torturing their ingenuity on that head. We have made

some heavy appropriations already, besides several dreadful blows aimed at the Treasury, which missed it by a hair's breadth. And there are now before us two claims alone, which, if allowed, will make a huge void space in its vaults of at least one-fourth of their capacity. I think it the best policy to wait and see if we have any money to dispose of, before we fall out about the method of disposing of it. For if, after several days' contention, it should be decided in favor of the gentleman's proposition, the unwelcome intelligence should arrive, that the cause of our disputes had disappeared, it would be placing us in rather a ludicrous situation. Therefore, having doubts as to the constitutionality of the resolutions, and being certain of their inexpediency, I am constrained to vote against them.

Mr. JONES, of Tennessee, said he confessed that it was with the highest degree of diffidence that he ventured to express an opinion upon a subject of so much importance as that now under consideration, and more particularly when that opinion was at variance with the opinion of men of age and experience, and who, he had no doubt, were deeply skilled in the science of politics. But, said he, if, by the adoption of this resolution, the citizens of this Government are to be clad in sackcloth and ashes, as has been stated by the honorable gentleman from Virginia, if naught but sighs and groans are to be heard in the land, I think it but mere justice that I should state to the world the reasons which have induced me to give a vote fraught with such direful consequences.

I feel convinced, sir, that if, in examining this question, we shall closely adhere to the declared object of the Constitution, and to the articles thereof, delegating the power whereby that object is to be effected, we shall have but little difficulty in coming to the conclusion that Congress has the power which we contend for. What, then, sir, is the declared object of the formation of this Constitution? We have it in the words of the framers thereof themselves: "to form a more perfect union, to establish justice, to insure domestic tranquillity, to provide for the common defence and general welfare, and to secure the blessings of liberty to ourselves and to our posterity." Having thus declared to us what their object was in framing the Constitution, and keeping steadily before their eyes the object of this intended compact in the 8th section of the first article thereof, they declare that Congress shall have power to lay and collect taxes, duties, imposts, and excises; to pay the debts and provide for the common defence, and general welfare of the United States.

What, sir, is intended to be meant by these general expressions "to provide for the common defence and general welfare?" It is contended (and I think correctly too) that no separate and distinct grant of power was thereby intended, but, that the manner in which the money to be raised by the taxation, immediately previously spoken of, should be expended, was thereby pointed out. Then, sir, this part of the Constitution would

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speak this language: Congress shall have power to lay and collect taxes, &c., for the purpose of providing for the common defence and general welfare of the nation. And it is further contended (and which I also admit to be correct) that the manner in which Congress is to provide for the common defence and general welfare is specifically pointed out, in the subsequent part of the same section of the Constitution, by raising and supporting armies, declaring and prosecuting war, &c. Thus far, sir, we seem well to agree; but, when we come to inquire as to the incidental powers necessary to be exercised—exercising these specified powers—we differ widely. Those who deny to Congress the power to open roads and canals; to clear the channels of rivers, &c., deny it, because, they say, it is not absolutely necessary in the exercise of any specified power, but that, when that absolute necessity does exist, as when war actually exists, and a superior force is at your heels, you may make a road whereby you may effect your escape, (and, I suppose, they would add,) if you have time to do so. This more than strict method of construing the Constitution, sir, would, it seems to me, render it entirely ineffectual. Let us test this mode of construction upon the section before alluded to. We all agree that the different parts of the eighth section, taken in connexion, may be correctly construed to mean that Congress shall have power to lay and collect taxes, duties, imposts, and excises, for the purpose of providing for the common defence and general welfare, which shall be done in the manner hereafter specified, to wit: by raising and supporting armies, &c. Now, sir, let me hold those gentlemen to this method of construing the Constitution: Those gentlemen, I have no doubt, will admit, if, by the Constitution, we are required to raise and support armies; and the means by which Congress is to procure the money to raise and support these armies, are specifically pointed out, that no other means can be resorted to. If the Constitution has declared, as we all admit it has, that Congress shall have power to lay and collect taxes, duties, imposts, and excises; and that this money is to be expended in providing for the common defence and general welfare, by raising and supporting armies, for one thing, I ask whether, according to this method of construction, Congress can appropriate money procured in any other manner to the raising and supporting of armies? What, then, sir, is she to do with the money which she is authorized to borrow on the credit of the United States? She cannot, according to this mode of construction, apply one dollar of it to the support of her armies, because this money is neither procured by laying and collecting taxes, duties, imposts, nor excise. Sir, this method of construction would make of the Constitution a perfect skeleton. When we are thus construing the Constitution, sir, we lose sight of the polar star by which we should be directed; we lose sight of the great objects of the formation of this Constitution. The wise framers of this instrument were aware that there were certain general pow-

ers necessary to the existence of any political body. These powers (or such of them as they thought necessary to the existence of this political body) they granted; but, sir, it was impossible for the framers of the Constitution then to see, or to point out, all the incidental powers which might be necessary to be exercised in exercising those general powers. A power was granted to the Congress of the United States to declare war, but has the Constitution pointed out the manner in which this war shall be prosecuted? Has it declared whether, in prosecuting this war, Congress shall be authorized to order the cutting of roads, making canals, digging wells, or levelling mountains, either of which may become absolutely necessary in preparing for, or prosecuting a war. From whence, I would ask, do we derive the power to make roads in time of war? We derive it from the Constitution. How is it granted? Simply by authorizing us to declare war; for, I suppose, it will be granted that, when war actually exists, Congress has the power to make roads through any State in the Union, for the purpose of marching our armies to any point where their services may be necessary. Well, sir, if Congress be authorized to raise and support armies for the purpose of providing for the common defence, and that, for the purpose of making those armies efficient, she may do this in time of war, I would ask why, in times of peace, we should not do what, in times of war, we are compelled to do? Sir, have we not all, nay, has not all the world, asserted this axiom, that, in times of peace, we should prepare for war? And what, I would ask, do gentlemen intend to mean by these expressions, or this axiom? Do they mean thereby that, in times of peace, we should lay and collect taxes? Do they mean, thereby, that we should fill the Treasury? I suppose not. Do they mean, thereby, that, in the words of the Constitution, we should have a well-organized militia? This, I suppose, for one thing, they do mean; but, sir, shall we be told, although we may have armies of militia, at all times able and willing to protect our liberties, that we have not the power to provide the means whereby those armies may act efficiently, by opening roads and canals, and by clearing the channels of rivers, whereby they may be marched or transported from one point of the Union to another, and whereby the means of subsistence may be afforded them, whenever their services may be necessary? Is it, I would ask, sir, thus necessary, in times of peace, to prepare for war? Upon this subject, let me refer gentlemen to the experience which the last war has afforded us; let me invite their attention to the North; see there our armies naked and starving, without a shoe to separate their feet from the frozen earth or snows; without a tent to shield them from the storm; and add to this the want frequently of a morsel of bread to satisfy a craving appetite; and, sir, when our armies were frequently snatched almost from the jaws of destruction by a partial supply, what did it cost us? or rather, sir, what would it have cost us, if the facilities of transportation and convey-



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ance had been previously attended to? Sir, I will venture to say, that, for want of these facilities during the last war, we have lost many of the lives of our citizens, and millions of our money. But, sir, if this will not suffice to show that it is thus necessary to prepare for a state of war, let me turn your attention to the West; look, sir, at the map of the United States; see what incalculable advantages we should derive, viewed in a martial or commercial aspect, from the clearing of the channel of the single river Tennessee, and cutting a canal between the waters thereof and the waters of the Tombigbee river. Sir, in times of war, although your whole southern coast should be in a state of rigorous blockade, you could, on your southern borders, be enabled to support your armies by commanding the resources of North Carolina, Virginia, Pennsylvania, New York, Ohio, Kentucky, and Tennessee. What would be our situation in the present state of things? Sir, if that country were now the seat of war, and our posts there were blockaded, our armies would soon conquer themselves; they would be driven back for the want of supplies.

But, sir, there is another important effect to be produced by this system of internal improvement, whereby will be afforded to the citizens of the United States the means of transporting to market the productions of the soil; open roads, cut canals, clear the channels of rivers, and you afford facilities to commerce, give stimulus to industry, the effect of which will be individual and national wealth. But we are told that this would be infringing on State rights. With due deference to the opinion of those who think in this way, I beg leave to state, that they seem to me to confound the thing to be done, with the means of doing it, or the manner in which it shall be done. Let me illustrate this idea. Sir, admit that, in times of peace, we should prepare for war, and to do this we find it necessary to open roads and cut canals; but, on examination of the Constitution, we find that we cannot proceed in this manner, because the States have absolute dominion of the soil; shall we stop here; shall we stop short, with a spade in one hand, and the Constitution in the other, and exclaim, my country, I would provide for thy defence, but I am fettered, I am manacled by this Constitution? Is there no other method by which it may be done, than by taking forcible possession of the soil of the States? Suppose Congress should ask the leave of the States to do so, and suppose that liberty be granted; I should then like to know what article in the Constitution it is, that would prevent the General Government from proceeding. Sir, let the vote of this House be what it may on the present occasion, I anticipate with pleasure the arrival of that happy period, when the effects of such internal improvements as we desire shall be realized by the citizens of this Government, not only in the facilities which shall be offered to commerce and mutual intercourse, but when, as a necessary consequence therewith, we shall behold the growth and pros-

perity of our now infant and struggling manufactures; when, in times of war, the farmer shall not be compelled to depend on foreign markets for the sale of those articles, by which alone he can raise the money to pay the taxes, which must then necessarily be demanded of him, but when, from his own door almost, he shall be enabled to waft to the market, which his own country shall afford him, whatever is his. Sir, I would hail this illustrious period as the harbinger to our still greater naval grandeur and naval glory. Sir, we have enough of the world of our own, why should we be dependent on foreign States or foreign Powers, even for the necessities of life? Why is it, sir, that the Atlantic margin alone of this vast continent is fringed with commercial cities looking as it were to the States of Europe for their daily bread; leaving behind them a continent vast in extent, fertile as man could wish, inhabited by an ingenious, intelligent, and vigorous race of men, producing from their farms the very materials of which the articles are composed, which are repurchased by those cities from the hands of the European manufacturer? It is for want of this internal improvement—it is for want of the fostering hand of the General Government. Why, sir, in a country of so vast extent, watered with streams almost in every vale, upon the margin of each of which nature has formed her richest soil; why, sir, does naught from these streams assail the ear, but the hollow sounding of the cascade, or the cry of the winged family that feed upon the inhabitants of the stream? It is for the want of this improvement—it is for the want of the fostering hand of the General Government. What shall reverse this gloomy prospect? The hand of the General Government; she alone can bid the sounds of streams be drowned by the cheering notes of the sportive rowers; she alone can bid villages and cities rise on the margin of those streams, where the rich productions of the soil shall be manufactured for the use and comfort of those who supply the manufacturers with bread and all their raw materials. Then, sir, with delight should we behold the streams which now idly glide from their sources to the ocean, sporting alone with the wreck of age or time upon their surface, groan beneath the weight of the productions of their sister element. Then, sir, every sail which should be descried in our horizon, should not bespeak an arrival from some distant port; but sails should be descried before the streams that bear them. Sir, we do not expect that in a day or year, or in many years, we shall be enabled to perfect this happy state of things; but let us now begin it, and leave it to be finished by posterity.

Mr. COLSTON, of Virginia, said, had he been so fortunate as to gain the attention of the Chair, he had wished to express his opinion on this important subject, at an earlier period of the debate; but, having failed in his wishes, he should not now rise but for the purpose of strengthening, by some further suggestions, the view of the Constitution just taken by the gentleman from

Tennessee. He would confine his observations to that point alone, and would be as concise as possible. The President, in recommending that the power to make roads and canals should be given to the General Government, by an amendment to the Constitution, admits that this is properly a federal power, and that its exercise, far from being dangerous, (as urged by some gentlemen with so much zeal,) would greatly conduce to the general welfare. This being admitted, let us examine the Constitution by the rules of construction usually applied to such instruments, to see whether this power, so proper to the General Government, so important to the interests of the nation, as to require, in the opinion of the President, an alteration in the Constitution itself, has really been withheld from us.

Our Government, at least, (and perhaps all others,) rests upon this great principle—the common interest and general welfare of the governed. It is a rule of construction, that all grants made for the benefit of a particular party should be construed liberally, so as to effectuate that benefit. Now the grants of power in our Constitution purporting to be made for the common defence and general welfare of this people, those which relate to the encouragement of commerce, or the defence of the community, are entitled to this liberality of construction. As it is admitted, then, by the President, that this power would very properly attach to the General Government, and if possessed by them would greatly conduce to the best interests of the nation, it results, that, in examining the Constitution for this power, a presumption should arise, favorable, rather than inimical, to its existence. Let us then proceed to examine the powers granted by the Constitution, to see whether this power of making roads and canals be fairly deducible from any of the specified powers, remembering only, that, as the Message admits its beneficial operation on the interests of the Union, according to the rule of construction just stated, at least, no presumption should be admitted against it.

The preamble to the Constitution is important, as showing the ends for which the people granted to the General Government the powers therein contained.

The first of these is, to “form a more perfect union.” The tendency of the power to construct roads and canals to promote this object, has been so ably developed by other gentlemen, that it will be only necessary to allude to another rule of construction, viz., that where the intent of the parties, in making a grant, or entering into an agreement, is clearly ascertained, that intent should be effectuated if possible, by any fair construction of the instrument.

In the eighth section of the first article we find, that “Congress shall have power, first, to lay ‘and collect taxes, duties, imposts, and excises; to pay the debts and provide for the common defence and general welfare of the United States.” Mr. C. said that many different constructions of this article prevailed, which he would proceed to examine; but to him it was

clear, that the construction just put upon it by the gentleman from Tennessee, viz: that it was a substantive grant of power to Congress, upon several subjects, and, among others, to provide for the general defence, was correct. But, say gentlemen, “No. For then the subsequent enumeration of such specific powers as those to raise and support armies, provide a navy, &c., would have been unnecessary, as clearly appertaining to the power of providing for the common defence.” The friends and enemies of the resolution before you agree, at least in one thing, viz: that such a construction shall be given the Constitution as will render each part effectual and consistent with the whole. And do they not perceive, that by their construction, they destroy the whole operation of this first clause, jostle it out of place, and neutralize its effects? Surely, then, if any other fair construction will reconcile this difficulty, and make each part operative, and consistent with the whole, it should be preferred by this committee.

To do this, he would inquire if there were no other powers necessary for the defence of a nation than those included in the powers of granting letters of marque and reprisal, raising and supporting armies, providing a navy, organizing, arming, and disciplining the militia, calling them into service, and providing arsenals? Surely there are. For instance; it is an usual mean of defence to provide proper military instruction for those who are to hold commissions in your armies; a mean not specified in any of the enumerated powers, but which we have wisely attempted to provide by our Academy at West Point. Again, where is the power of using, in war, the assistance of persons other than our own subjects, and not constituting a part of our regular Army? Yet this power has always been exercised as necessary to the common defence, in employing numerous parties of Indians with our armies. Other instances might be adduced were the Committee not already exhausted by the length of this debate. But let us apply these observations to this section. The general power of providing for the common defence is granted, then, in this as in several other parts of the Constitution; for greater security, specified powers, contained in the general, are enumerated; the effect of the whole is, that the specification certainly conveys the particular power, while the general grant conveys all other powers necessary to the common defence, not contained in those particulars, or not forbidden to be exercised. Thus, by this construction of the Constitution every part is made to stand consistently with the whole; each part becomes operative; no part is degraded into a nullity; and, without it, all the operations of Government, in time of war, would be clogged with innumerable difficulties. Again: in what other part of the Constitution is the power to lay and collect taxes, &c.? It is not denied that this section conveys this power; and by what fair rule of construction do gentlemen undertake to garble this clause, to make one part of it operative, and to deny all effect to another,

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contained in precisely the same words? Other gentlemen construe this section as if it were written: "Congress shall have the power to provide for the common defence, &c., by laying and collecting taxes," &c. But, not to mention that this would require a different arrangement of the whole sentence, it would be liable to the objection before urged, viz: that, in a point of such infinite importance as the common defence, you would debar the Government from some of the most ordinary and proper means of securing it.

Mr. C. said he had endeavored to show, that the first clause of the eighth section of the first article contains a substantive grant of power to Congress to provide for the common defence; and, by the seventh clause, all powers *necessary and proper* for carrying into effect any of the specified powers, are also granted; that is, all powers necessary and proper, providing for common defence, are granted to Congress. It now becomes proper to ascertain the precise meaning of these words, "necessary and proper." And surely no gentleman will contend that they should be so construed, as that the grant of some specific power would become nugatory, before any power resulting from this seventeenth clause could be constitutionally used; or, as if the word *absolutely* had been prefixed to the word *necessary*? But I beg leave to refer the Committee to the reasoning of General Hamilton on this subject, as placing it in too strong a view to be resisted. [Mr. C. here read an extract from General Hamilton's report on the constitutionality of a National Bank.] This reasoning, sir, is to my mind conclusive, and fully establishes that the word *necessary* is here to be taken, not as if "*absolutely*" were prefixed, but in its common, popular acceptation, of highly important. All powers, then, highly important and proper to the common defence, are hereby granted. The question, then, is brought to this point: is it highly important to the defence of the nation that the nation itself should have the power to erect military roads?

But, said Mr. C., as every relation which the exercise of this most important power could have upon the interests or security of the community has already been most ably presented to the view of the Committee by gentlemen who preceded me, and as I only rose to support a particular construction of the Constitution, I will not intrude upon their patience, fatigued, as they must be, with the unusual length of this discussion, by a repetition of views already before them. I would briefly observe, however, that the importance of this power, as a military measure, has been manifested by the example of those nations most eminent in peace and in war, from the days of the Roman Republic to those of Napoleon and Alexander of Russia, and might be demonstrated by the history of our own country during the late war, did not the conduct of the President, in directing the making of the road from Plattsburg to Sackett's Harbor, obviate the necessity of such further proof.

Mr. C. said, he had now attempted to show,

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that the objects declared by the people, in the preamble to the Constitution, to have been the inducements to its adoption, would be most effectually answered by the exercise of this power by Congress; that the Constitution had granted them a distinct substantive power to provide for the common defence; that all powers highly important to the exercise of this substantive power, were also granted; that the power to erect military roads was highly important to the defence of the country, and that, consequently, it could not, by a fair construction of the Constitution, be withheld from Congress.

Mr. H. NELSON, of Virginia, then took the floor against the report and resolutions, and occupied it till nearly sundown.

When, before he had concluded his remarks, the Committee rose, and obtained leave to sit again.

#### THURSDAY, March 12.

On reading the Journal this morning, in the accustomed manner, a discussion arose as to the mode in which the entry had been made respecting the petition of Vincente Pazos, presented on yesterday. After stating the official character of the petitioner, the entry proceeded to describe, briefly, the contents of the petition, and particularly to state that the petitioner, having failed in his application to the President for redress, applied to Congress for relief.

A motion was made by Mr. POINDEXTER, to amend the Journal, by striking out that part which described the contents of the petition. In support of this motion it was urged, by him and others, that the petition, not having been received by the House, the contents ought not to be spread upon the Journal, as was usual; that, by so doing, publicity was given through the Journals of the House, to a petition of exceptionable character; and that it was sufficient to state only the official denomination of the petitioner.

On the other hand, it was contended that the ayes and noes being recorded, it was necessary to state so much of the petition as had been inserted, in order to show the grounds on which the House acted; that the Constitution requiring the ayes and noes to be recorded, the nature of the question on which they voted should be clearly stated; that to state the official character of the petitioner was not sufficient, because the appeal from the Executive was a ground on which probably many of the majority had voted; while, on the other hand, the claims of the petitioner, which Congress alone could redress, being the ground on which some of the minority might have voted, ought equally to be stated.

The House, by a large majority, overruled the motion, and thus sanctioned the entry as made on the Journal.

*Ordered.* That the report made yesterday by the committee on that part of the President's Message which relates to roads, canals, and seminaries of learning, upon the subject of the Cumberland road, be recommitted to the said committee;

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and that Mr. WESTERLO and Mr. TARR be added thereto, in the places of Mr. INGHAM and Mr. STORRS, who are absent on leave.

The SPEAKER laid before the House, a letter from the Secretary of War, transmitting, in obedience to a resolution of the 6th ultimo, a statement of balances now due, respectively, from such persons, now or heretofore acting in the quartermaster's and paymaster's departments, whose accounts have not been settled for the period of more than one year previous to the 27th December last; which was read and ordered to lie on the table.

The SPEAKER also laid before the House, a report of the Secretary of War, on the petition of Thomas Williams, of the Iroquois tribe of Indians, referred to him on the 13th of January, 1816; which was read and ordered to lie on the table.

The SPEAKER also laid before the House another report of the Secretary of War, made in conformity to the act of 10th April, 1816, "to provide for persons disabled by known wounds received in the Revolutionary war;" which was referred to the Committee on Pensions and Revolutionary Claims.

Mr. LOWNDES, from the Committee of Ways and Means, reported a bill relating to duties on foreign merchandise; which was read twice, and committed to a Committee of the Whole tomorrow.

Mr. LOWNDES also reported a bill providing for the deposit of wines and distilled spirits in public warehouses, which was read the first and second time, and committed to the Committee of the Whole on the bill supplementary to an act, entitled an act regulating the collection of duties on imports and tonnage, passed the 2d of March, 1799.

#### TRANSFERS OF PUBLIC DEBT.

Mr. LOWNDES, from the Committee of Ways and Means, who were instructed by a resolution of the 4th ultimo, directing an inquiry into the legality of transfers of public debt, made to the Bank of the United States, to secure the payment of loans made to them, made a report, which was read and ordered to lie on the table. The report is as follows:

"That they do not perceive in the words or principles of the law incorporating the bank any reason to object to the practice, which they understand to prevail, of admitting as a substitute for personal security that which results from a deposit of stock, with a power to sell it when it may be necessary to enforce payment of the debt. If the object of the law in limiting the articles in which the bank may trade be to secure to the mercantile community the facilities which a large banking capital, should offer, this practice well conforms to such a design. If the object be (although this is not probable) to prevent the competition of the bank in the purchase of stock, and its consequent enhancement in price, although the practice may prevent the necessity of some sales, this beneficial effect, which may sometimes mitigate commercial distress, cannot be objected to by a just and humane Government. Nor can it be objected to the practice in question that it may enable the bank to throw into the market a quantity of stock which would depress its value, since

this would be to injure the bank as well as the Government, and since it implies an absolute power to dispose of the property, while the power of the bank is considered as contingent and temporary.

"On the whole, the committee do not understand the practice to be one which gives to the bank an interest in the price of stock, or an opportunity of speculating in its rise or fall. It is substantially a security which may be promptly enforced—useful to the merchant, whose loans it facilitates, and to the bank, whose debts it secures."

#### INTERNAL IMPROVEMENT.

The House then proceeded to the unfinished business of yesterday, and again resolved itself into a Committee of the Whole, on the resolutions on the subject of internal improvement.

Mr. HUGH NELSON resumed the remarks which he commenced yesterday against the resolutions, and spoke about an hour and a half.

Mr. MERCER, of Virginia, rose and addressed the Committee as follows:

It is not, Mr. Chairman, without extreme reluctance, said Mr. M., that I rise at this period of the day, exhausted as must be the attention of the Committee, to mingle in a much protracted debate the feeble accents of an humble voice. I was willing to submit the fate of the resolutions under discussion to the decision of the Committee, after the able argument of the honorable member from South Carolina, (Mr. LOWNDES,) who had a prior title to the floor, as well as to the attention of the Committee. The field of debate has, however, been subsequently extended, and such obstructions have been thrown in our way by our opponents, and especially by the ardent zeal of our last antagonist, (Mr. H. NELSON,) that I can no longer reconcile it to my feelings to pass a silent vote upon a question so important to the prosperity of my country.

The resolutions, taken together, present to our decision this interesting question: Shall the surplus revenue of the United States be applied, through a well-digested system of internal improvement, to perpetuate the duration and to promote the prosperity of their Union?

Sir, said Mr. M., should these resolutions be rejected, the chief interest which I feel, in my station upon this floor, will have expired, and I shall be ready to surrender to my constituents an honor, barren of enjoyment to me because unprofitable to them. If I cannot be allowed to unite my zeal to that of my associates in this hall, for the advancement of the public welfare, in the only practical mode which a state of profound peace leaves open to our industry, I had rather seek more useful occupation, or an humbler field of legislation. I came here prepared to sacrifice, upon the altar of my country, all my local attachments, and whatever party feelings, if any, yet remained in my breast. I hailed with delight the arrival of a period, when the patriotism might be combined with the wealth of the nation to exalt its prosperity and glory. Formidable obstacles have arisen in the way of this anticipation; but I will not yet despair of seeing it realized.

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Among these obstacles, Mr. Chairman, it is with peculiar regret that I find myself compelled to notice the premature decision of the President upon the Constitutional power of Congress to pass the resolutions on your table. Such an anticipation of the acts of this House is calculated to perplex and embarrass its proceedings, if not to bias and warp its judgment; to lay the foundation of improper insinuations against any course which this House may take in the exercise of its Constitutional discretion. The expression of this regret is reluctantly drawn from me by a sense of duty. Candor, indeed, requires me to acknowledge, that I was not a friend to the election of the present Chief Magistrate. I believed that the future prosperity of this Union, as well as the best interests of the State which I have in part the honor to represent, required that the Executive chair should not be a fourth time filled by a citizen of Virginia. But I never, at any period of my life, entertained a sentiment of personal hostility towards the gentleman who now occupies it, nor have I, at present, any feeling at war with his popularity or influence. After this protestation for myself, allow me to add, that I do not the less regret this premature disclosure of the judgment of the President, from my respect for the feelings of the gentlemen from whom it is my misfortune to differ in opinion on the present occasion. I would not have their motives subjected to imputations of an opposite character to those by which mine may be assailed; alike unfounded, I am persuaded, and, if possible, more unworthy the dignity and independence of their public station.

While I deplore the existence of any such embarrassment, I cannot, however, yield my assent to an effort to remove it in the mode suggested by the message of the President which produced it—by an attempt to amend the Constitution of the United States. In my judgment, Mr. Chairman, it requires no such amendment. And to those who concur in such an opinion such an expedient must appear not merely unnecessary, but highly dangerous. For if, in relation to every Constitutional scruple of the Executive, resort is had to the power of amendment for an exposition of the meaning of that instrument, there is obviously an end of all stability in the Government. Its very foundation will vary with the conscience of every successive President of the United States. Congress cannot, hereafter, should the proposed amendment fail, exercise a power, the existence of which they have themselves admitted to be doubtful. Every submission to the States of a Constitutional question, on which an Executive scruple had arisen, might, therefore, involve in its consequences a surrender of Federal authority, until the powers of the Government became incompetent to its preservation. It has been asked, indeed, if we are afraid to submit this question to the people. And, from our unwillingness to do so, one of my colleagues (Mr. H. NELSON) has inferred an admission on our part that they would not grant it. Were the question submitted to the States, how, let me ask,

would it be decided? Congress cannot, indeed, legislate against the will of the President, without a concurrence of two-thirds of this House; and, consequently, a legislative cannot prevail against an executive construction of the Constitution, unless sustained by the representatives of two-thirds of the people of the United States. Such will be the sanction of these resolutions, should they acquire, as I earnestly hope, the authority of law. But an attempt to amend the Constitution would require, for its success, not only the assent of two thirds of this House, but the concurrence of four-fifths of the States. It might be defeated by the opposition of six only of the twenty States who now compose this Union; by a number, whose representation upon this floor does not exceed thirteen members out of one hundred and eighty-five, or a fourteenth part of this body. Lest it should be objected to this calculation, that it is founded on an improbable combination in the minority of the least population of the new States with the smallest of the old, let the same number be selected exclusively from the latter, and the proposed amendment may then be defeated by a portion of the people represented by but twenty-nine members of this House, or less than one-sixth of its entire numbers, and less, therefore, than one moiety of that proportion of this body, which will be required to prevent the adoption of the resolutions under consideration.

Should a mode of expounding the Constitution, so dangerous to its authority, acquire the force of precedent, it will be the more to be deplored, as the inequality of population among the several States must, hereafter, inevitably increase with the improvement of our southern and western territory.

In resisting this plausible appeal to popular influence, we, therefore, who consider the Government as already invested with the Constitutional power, which we wish to exercise, cannot be justly charged with an attempt to enlarge our authority by mere legislative construction. We are only unwilling to remove the doubts of our opponents, at the possible expense of the legitimate powers of Congress, which, by our oaths of office, we are, like ourselves, bound to sustain.

But, my honorable colleague, who has just addressed you, has ardently endeavored to interpose a yet more formidable obstacle to the adoption of these resolutions. He has gallantly unfurled the ancient banner of his party, and sought to rally his Republican forces on the side of the Executive. He has reminded them of their ancient victories, and summoned them to the same field of triumph—a triumph of the States over the Federal Constitution. He derives his principles, he tells us, from the resolutions of the Virginia Legislature, and the argument of Mr. Madison, to which he ascribes what he is pleased to call, the glorious Revolution of 1793. It is, perhaps, common to the inhabitants of every State in this wide spread Union, nay, to every people on the habitable globe, it is certainly imputed to us, that we pride ourselves on the land which gave us

birth; and I cannot refuse to acknowledge the glow of feeling which mounted to my cheek, when my colleague thus swelled the political consequence of Virginia in the councils of the Union. But I, too, Mr. Chairman, have some recollection of the times of which we have been just reminded; and, in spite of all my native sensibility, I am driven to other causes than those assigned by my honorable colleague, to account for the political revolution of that day. I no more ascribe it to the argument of Mr. Madison, than I should the origin of the wind to the weathercock which indicates its present course; or the impulse and direction of the passing current to the feather which floats upon its surface.

The basis of that argument, that the States are the parties to the Federal Constitution, is not only unsound in fact, but inconsistent alike with the preamble of the Constitution, and with the doctrines of the Federalist; that able defence of it, to which the author of this celebrated argument so largely contributed, and of which he now shares the glory with his illustrious associates. The very resolutions, which this argument was designed to sustain, held out to the nation, as objects of wasteful extravagance, in themselves, and of alarm in their consequences, a navy consisting of a few frigates, an army of half the extent of that which now mans the military posts that encircle and guard our territory. The political revolution, of which the honorable member has so triumphantly boasted, began in opposition to the Federal Constitution, was accelerated by the French Revolution; was staid for a while, indeed, by the great but declining influence of General Washington, whose Administration it often shook to its base; and finally vanquished a disunited party, guided by discordant, rash, and improvident counsels.

Since the period of this revolution, we have traversed a wide field of experiments—experiments not always successfully terminated—and have, at length, been reconducted by the good sense of the people to the ground from which we had departed. The theory of the Constitution has been settled by practice; the policy of the Government, by experience, that unerring test of truth; and, with the wars of Europe, our own political agitations have subsided into a tranquillity, which, I most earnestly trust, no tocsin, however loudly and passionately sounded, will be able to disturb. America no longer looks with dependence abroad, but exults in the excellence of her institutions, and “burns in a light of her own.”

If the Constitution can ever be correctly expounded, it is surely at such a period as the present. Let us, then, Mr. Chairman, deliberately open it, and inquire if it confers on us the power which we have proposed to exert—the power of constructing roads and canals for certain specified purposes, or, if that be denied us, the power of appropriating the public money to similar objects, previously authorized by the States, for they are but different, though very unequal means, I admit, of attaining the same end.

In prosecuting this inquiry, I regret the danger, to which I am exposed, of repeating the arguments that have been already employed, with so much ability, by the gentlemen who have preceded me in this debate. I shall endeavor, however, to avoid the ground over which they have travelled; and, when insensibly drawn on it by the reasoning I have to oppose, I shall labor to maintain, by additional facts and arguments, the positions which they have assumed.

Allow me, then, in the outset, Mr. Chairman, to assure my colleagues who have opposed the resolutions on your table, that I mean, in expounding the Constitution, to sustain the same doctrines of construction for which they have contended. I deny, indeed, that those doctrines have arrested the career of any Administration; for, without their aid, no Administration whatever could subsist; and I beg leave to assure the honorable Speaker, who has espoused the same side of this question with myself, that they are not more Republican than they are Federal. I mean to apply to the Constitution the plainest dictates of common sense and common experience; to infer its powers from its language, where that is at all doubtful, from the intention, and, as the best evidence of this, the acts of its authors.

In performing this duty, I cannot concur in opinion with my two colleagues, who spoke in an early stage of this debate, (Messrs. SMYTH and BARBOUR,) that the sole or chief object of the Constitution was to confer on Congress the three powers to declare war, to negotiate treaties, and to regulate trade; and that all other powers of the Government are to be construed as auxiliary to these. The end of the Constitution is proclaimed by itself, or by the people whose act it was, “to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to themselves and to their posterity.” The powers referred to by my colleagues are but a part of the means provided by the people, for the attainment of these important ends. All other legislative powers, and the co-ordinate branches of the Government, the Executive, and the Judiciary, were alike ordained by the Constitution to secure its most noble purposes. In determining the true extent and application of all these powers, the most obvious principle of construction, is to regard the end for which they were respectively devised.

The power of declaring war, of raising and maintaining fleets and armies, is to be construed, so as to provide for the common defence. The power to create courts, so as to secure the administration of justice. The power to establish post offices and post roads, so as to insure, in the language of the ordinance of the Confederation in 1782, “the communication of intelligence, with regularity and despatch, throughout the United States, a measure essential to their safety, to their commercial prosperity,” and to their general welfare.

Still less, Mr. Chairman, can I concur with my



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colleague who last addressed you, and who would construe the powers of the General Government, by reference to the limited authority which he supposes to have been given to the deputies of the Convention which framed the Constitution. They were authorized, he told us, to do no more than supply the Confederation with the power of regulating; and that for the sole purpose of raising a revenue from commerce.

If, indeed, the Convention overstept the limits of their authority, their usurpation furnished an argument against the confirmation of their act by the people, to whose ratification it was submitted. But, when once ratified, the Constitution ceased to be the act of the Convention, and, becoming the solemn act of the people of the United States, derived from them all its authority. In truth, sir, this anti-federal charge, wielded with so much force by Henry, and now revived, after the lapse of near thirty years, never had a competent foundation to sustain it. My colleague has confounded the small assemblage of deputies at Annapolis, who dispersed, without any acting at all, with the subsequent Convention at Philadelphia, which framed our present political system, under the broad authority, expressly recommended by the Old Congress, and delegated to them by the States, "to render the Federal Constitution adequate to the exigencies of Government, and the preservation of the Union."

My honorable colleague has conducted us, though in darkness indeed, along a path, which, if properly explored, will lead to no unimportant conclusion, in relation to the end of our present inquiry.

The principal defect of the Confederation arose from the absence of an adequate sanction to enforce its legitimate authority. Congress were invested with powers to call upon the States for their respective quotas of men and of money, whenever required by the exigencies of the Union, and the States were politically and morally bound to furnish them whenever so required. This authority was designed to be commensurate with the public necessities, to provide for the common defence and general welfare of the States; and as the latter were incapable of limitation, so the authority to provide for them was as unlimited by the Articles of Confederation. But this authority rested for support on the voluntary obedience of the States, who often disregarded or failed to comply with its demands. To enforce them, would have involved the coercion of a State, and to provide for the emergencies of a foreign, the Federal Government must have encountered all the horrors of a civil war. The debility of the Confederation, as well as the existence of our present Constitution, may be traced to this source. The powers of the former Government operated on the States, and not upon the people; the remedy was obviously to be found in a government which should operate directly on the people, and not upon the States. Such is the remedy which our present Constitution sought to provide. That I have not mistaken the true character of this important revolution in our Government, allow me to call the attention of the Committee to the 20th

number of the *Federalist*, which derives a higher authority from having been the joint production of two of its authors, Mr. Madison and Mr. Hamilton. "The important truth," say these able commentators upon the Articles of Confederation, "which experience unequivocally pronounces, is, that a sovereignty over sovereigns, a government over governments, a legislation for communities, as contradistinguished from individuals; as it is a solecism in theory, so, in practice, it is subversive of the order and ends of civil polity, by substituting violence, in the place of law; or the destructive coercion of the sword, in the place of the mild and salutary coercion of the magistracy." In a prior number of this able work, the last of these authors more amply illustrates the same doctrine, and demonstrates its important influence in determining the character of our present Constitution. "If it be possible," he writes, to construct a Federal Government capable of regulating the common concerns and preserving the general tranquillity, it must be founded, as to the objects committed to its care, upon the reverse of the principle contended for by the opponents of the proposed constitution;" the very principle, Mr. Chairman, we shall presently discover, which my honorable colleague, (Mr. H. NELSON) and all who have preceded him, on the same side of the question, have sustained on this floor. "It must," he proceeds, "carry its agency to the persons of the citizens. It must stand in need of no intermediate legislation; but must itself be empowered to employ the arm of the ordinary magistrate to execute its own resolutions. The Government of the Union must possess all the means, and have a right to resort to all the methods of executing the powers with which it is intrusted, that are possessed and exercised by the governments of the particular States. If the interposition of the State Legislatures be necessary to give effect to a measure of the Union, they have only not to act, or to act evasively, and the measure is defeated. The 'State leaders' mark the expression, 'may even make a merit of their surreptitious invasions of the Constitution, on the ground of some temporary convenience, exemption, or advantage.'"

Hence we perceive, that the framers of the Constitution not only enlarged the powers, as is admitted, but changed the subjects of the Federal Government. The former amendment was necessary to impart sufficient strength to the political body; the latter, to subject its members to the authority of its head, without which, that strength would have been useless.

From this history of the Constitution, it results, that the General Government, to the full extent of its delegated power, is national; that its authority was designed to operate, not upon the States, but on the citizens of the United States; that its legitimate powers can in no case be enlarged or reduced by the consent of the States, otherwise expressed than by an amendment to the Constitution, in the mode prescribed by the Constitution itself; and that its authority may, should, and often will be exercised against the

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wishes, or without the approbation of the States, and can in no case whatever be dependent on their pleasure. If, to these doctrines, there be added one, which the Constitution expressly recognises, and which no gentleman has questioned in the course of this debate, "that with every power expressly conferred on the Federal Government, all necessary and proper means of giving effect to it are also imparted by the Constitution," a doctrine, indeed of common sense, without the aid of which no Government could subsist, and which, had the Constitution been silent, must have been inferred; the inquiry, Mr. Chairman, into the authority of Congress to pass the resolution on your table, is at an end.

If, indeed, as the honorable Speaker has contended, the power to establish is the power to construct, and the word establish, as he has ingeniously shown, to create, as well as to fix, a construction, which a recurrence to the same term in the Articles of Confederation would yet, farther sustain, no implication whatever is necessary to arrive at the authority for which we contend. It is true, this term is often figuratively used, as remarked by one of my colleagues (Mr. JOHNSON) and impressively illustrated, in the debate of yesterday, by a recurrence to the preamble of the Constitution, where to establish, cannot literally mean to create justice, which, as he asserted, is above all human or divine control. Yet, in the several clauses of the Articles of Confederation, in which this term occurs, as in that particular clause of the Federal Constitution which furnishes a part of the topic of our present discussion, our construction of the import of the word *establish*, is liable to such exception. To offer from the former but a single evidence of this—"Congress shall have the sole and exclusive power of establishing courts, for receiving and determining, finally, appeals in all cases of capture." That no pre-existing courts were contemplated, in the use of this term, is evinced by the accompanying proviso, "that no member of Congress shall be appointed a judge of any of those courts."

But, if driven to implication for our foundation of the power to construct post roads, it must be conceded that the power exists somewhere, or that, to establish them, would be nugatory. The question then arises, does the former power remain with the States, while the latter is expressly delegated to the General Government? If so, the evil against which the Constitution sought to guard the necessary authority of the Union, remains in full force. The Federal Government is cast upon the mere pleasure of the States, for the exercise of a power essential to its existence.

It would, however, be doing injustice to the patriotism of our opponents, if, while they deny to us the full and secure enjoyment of this power, we did not, Mr. Chairman, acknowledge that they underrate its importance. One of my colleagues (Mr. BARBOUR) regards the provision of the Constitution for establishing post offices and post roads, as analogous to the agreement, sometimes with, and sometimes without the formality of a treaty between some of the adjacent States of

Europe, for the interchange of mails. He supposes that the Convention designed to confer on Congress an authority to establish a similar intercourse between the United States. To sustain this analogy, he has not only to regard the several States as independent of each other, but the Federal, as a foreign Government, in relation to them all. The Constitution, Mr. Chairman, is not a treaty. It does not prescribe the relative duties of States to each other, but of the citizens of the United States as a common Government, charged with the most important interests. It was the act, and it established the Government of one people, not of thirteen or twenty distinct nations. In this respect, we had already seen that the Constitution of the United States resembles no league that ever existed; neither the Articles of Confederation, which it was expressly designed to supersede, nor any of the confederacies of ancient or modern Europe, against the defects and dangers of which it was intended to guard. The Articles of Confederation did, in fact, establish and regulate post offices between the States—the Constitution among the citizens of the United States.

Had my colleague sought for his analogy among the political constitutions, rather than the treaties of Europe, he would have ended his researches in the establishment of the very authority for which we contend. And that he should have done so is the more obvious, since the transmission and diffusion of commercial and political intelligence throughout each particular State, as well as between the United States, is the end of that power of Congress of which he has misconceived the origin, and, therefore, undervalued the importance.

It is due to him to admit, that he has not only degraded the power which he ascribes to the United States, but denied, at the same moment, the necessity of enforcing and protecting its exercise by the authority which we claim; and, that the Convention meant not to impart this authority, he inferred, from the circumstances of the country at the period when the Constitution was framed. The new States, he informed us, were not then in being; the population of the old was dense; and all necessary or useful roads had been already constructed.

If the existence of any power in the Government could be legitimately inferred from the defects of the argument by which it is questioned, we might confidently found the authority which we assert on the fallacy of this reasoning. I will not carry my colleague as far back as he proposed to carry us, but allow him the entire benefit of that addition which thirty years have made in our population, in order to enable him to prove the density of our present numbers; and, when he shall have done this in relation to the old States, I shall have simply to remind him that all the new States, except Louisiana, have sprung up on the territory of the old, under an express provision of the Articles of the Confederation, and of the present Constitution; the effect of which their authors cannot but have foreseen, and for which they must have intended to provide.

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The spirit of internal improvement, now seeking to find its way into the councils of the Union, has, it is true, recently began to animate the Legislatures of the South, but it must successfully operate for more than twice the period which has elapsed since the adoption of the Constitution, before we shall be able to congratulate ourselves on the number and excellence of our public highways. As regards such as should minister to the necessities of the Federal Government, its creation, it should be remembered, produced a new and more important centre of intelligence, as well as action, in our political systems. The several States might have rendered the channels of their internal intercourse subservient to their respective local interests; but they could not have been expected to adopt them, and unquestionably did not, to the purposes of a Government which did not exist, and the seat of whose deliberations was not established.

My honorable colleague was not insensible of the danger of subjecting the Federal Government to a reliance upon the individual States for the means of exercising its necessary authority. He admitted the right of Congress to pass all laws necessary and proper to carry into effect the powers expressly delegated to any department or officer of the Government of the United States.

But while he conceded an authority expressly granted by the Constitution, and which, if not so granted, the plainest suggestions of common sense must have inferred, he involved his concession in certain metaphysical, I will not call them legal refinements, which are calculated greatly to impair, if not entirely to destroy its useful application. He requires that every implied power, claimed under this grant, shall have a direct, obvious, and natural tendency to execute some authority expressly delegated.

I would ask, Mr. Chairman, whether distinct ideas are to be annexed to these terms; if such tendency be direct, it may not be assumed to be obvious; if both direct and obvious, it may not be regarded as natural? If a power may not be fairly implied, although, when compared singly, or apart from many others which conspire with it, to the execution of one expressly granted, its tendency be indirect? If the legitimacy of every implied power depends on its direct tendency to attain some Constitutional end being made obvious to every understanding?

Of these three qualities required by my colleague, the least, or that which is figuratively denoted by the term natural, affords, perhaps, the best characteristic of that tendency of an implied power, which renders it Constitutional; and if employed in contradistinction of such tendency, from one which is overstrained or forced, for the purposes of usurpation, I cheerfully acquiesce in this limitation of the powers of Congress. I have then to ask my colleague, if the power to construct has not a natural tendency to execute the power to establish a post road? May we not go farther, and aver that such tendency is alike direct and obvious; that a road must exist, before a mail can be transported on its surface; and that

the power to establish post roads may be obstructed or defeated, unless the power to make them accompany it? The ingenuity of my colleague has betrayed him into a more extraordinary error of the same description. Having denied that the power to establish necessarily comprehends the power to construct post roads, he assumed the last to be the greater power of the two; and hence inferred, that the latter could not be implied from the express grant of the former. Permit me briefly to examine, first, the fact, and next the political doctrine on which this conclusion is founded. Even in physical science, such is the necessary and intimate dependence of one agent on another—so many effects, more or less striking to the external senses, flow apparently from the same cause, that it is not easy to define the relative magnitude of any two natural powers, unless, indeed, both their nature, and the circumstances under which they operate, are the same. The power of attraction or gravitation restricts the planets to their orbits, and holds together the elements of the earth which we inhabit. But it has been asserted that such is the expansive force of the air, that if a single grain of gunpowder could be completely confined in the centre of our earth, and there suddenly exploded, it would burst this globe asunder. I will not stop to inquire which is the greater of these powers, but merely remark, that when we enter upon the field of political science, if, indeed, it deserves that appellation, the expressions *greater* and *less* become often incapable of any definite application. If the magnitude of a political power be derived from its apparent effects, we shall find it impossible to reconcile some of the greatest revolutions in the world to causes seemingly trivial.

But the Constitutional doctrine of my colleague is yet more fallacious. The foundation of all implied powers in physical, as well as political science, is to be sought, not in their relative magnitude, but in their relative dependence on the powers from which they are deduced. And since it is most obvious that the greater of two powers may have a direct and natural tendency to execute the less, the constitutionality of the former may be inferred, according to my colleague's own admission, from the express grant of the latter. In the connexion of causes and effects, the smallest link is an essential part of the whole chain. The construction and establishment of a post road, if regarded as distinct acts, are alike necessary, though, indeed, humble means of accomplishing one common end, necessary alike to the safety of the Government and to the convenience and comfort of the people. Which of them is the greater power, or contributes more largely to their joint result, I acknowledge my utter incompetency to decide—whether in the transmission of social, literary, commercial, and political information, the Government, or the people, can better dispense with the road or the mail.

Having, I trust, said Mr. M., removed some of the obstructions which remained in my path, I come now to the main ground, on which our op-

ponents rest their opposition to the authority of Congress, for which we contend. My colleague, who has just addressed you, considers himself engaged in "the last battle which will ever be fought upon this floor for the preservation of State rights." In the excess of his zeal, he has charged the friends of the resolutions with usurpation and tyranny. And on what does he found this heavy accusation? On the suggestion that no road can be constructed under the authority of Congress without a title to the soil over which it passes; from whence he infers, that the power which we claim for the Federal Government may involve an application to the public use of some part of the land of a private citizen, lying within the territorial limits of a State, without the consent of either.

For myself, Mr. Chairman, I utterly deny this charge, but I most readily admit the specification on which it is grounded.

If the Government of the United States derive from the Constitution an authority, either expressed or implied, to construct a post road, that authority is incomplete—is as independent, in the latter case, of all other human control, as the expressly delegated power from which it is inferred. The Government therefore may lawfully appropriate the soil or any other property of its citizens to such public or national use, after making to them, in the language of the Constitution, just compensation. If this, sir, be tyranny, it is a tyranny practised by every State in this Union, and by every Government that ever existed; since no Government could long subsist without the exercise of such an authority.

Perceiving (as was admitted early in this debate by one of my colleagues) that the power to construct a road carries along with it every necessary adjunct, and consequently that of acquiring a qualified right to the soil on which the road is made, our opponents have united to undermine this last authority, by denying to the General Government the legal capacity to acquire lands within the limits of a State, even by ordinary purchase, unless indeed for certain purposes specified in the Constitution; and for these, not without the consent of the State, nor (as has been just contended by another of my colleagues) without exclusive jurisdiction. The last of our opponents has augmented the authority in question beyond the extent which we claim, in order, I presume, to render that claim more difficult to sustain; while all of them have construed the sixteenth clause of the section of the Constitution which confers, while it enumerates, a part of the general powers of Congress, so as to restrain, rather than enlarge, the other legislative authority of the Government. This is however not a restraining, but an enabling clause. The place which it occupies in the Constitution, and its fair construction, concur in giving to it that character.

The authority to exercise exclusive legislation, in all cases whatever, over any place within the territorial limits of a State, is one which Congress could seldom need, and which the natural pride and jealousy of a State would reluctantly

cede. The Articles of Confederation expressly provided, "that no State should be deprived of territory for the benefit of the United States." This proviso, coupled with the paragraph of the eighth article, to which it belongs, and with that which immediately succeeds it, proves, that by *territory* was here meant both soil and jurisdiction. So it was ever construed; and, being so construed, Maryland long refused to ratify those articles, because they contained it; while Rhode Island and New Jersey successively, though ineffectually, sought to amend them by striking it out. They contended, with some plausibility, that the ungranted lands within the States were the property of the British Crown, and, if wrested from its possession at the expense of the common blood and treasure of the Union, ought to be regarded as common property. Without attempting to settle the merits of this argument, which doubtless possesses most force in the estimation of those States who possessed least property of a description to be affected by it, I will now return to the particular clause of the Federal Constitution which seems, if not to have been borrowed from, to bear some analogy at least to, the proviso which I have endeavored to expound.

This clause authorizes Congress to acquire exclusive legislation over the soil of a State for two purposes only—for the security of the immediate Seat of the Federal Government from the undue control of any particular State, and for the military defence of the United States. It restricts the former to a district, not exceeding ten miles square; and the latter, to such places as may be "purchased, by the consent of the Legislature of the State in which the same may be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings." With exclusive legislation, or jurisdiction, (if my colleagues prefer the term, and the former power would result in the latter,) the right of soil in the contemplated district is not required to pass to the Government, and in fact has not so passed, but remains with the private owners, except where purchased with their voluntary consent.

In the other acquisitions of land, exclusive jurisdiction is allowed to accompany the right of soil; and, where the Government desires this union of authority, as it can be obtained only by the consent of the State, such consent becomes necessary, and is expressed or given, by permitting the purchase to be made. But, as the whole of any power comprehends all its parts, so that of a State to divest itself of all jurisdiction, or to enlarge the powers of Congress over such places within its territory as have been described, may be exerted to a greater or less extent; and has, accordingly, been exercised, in some cases, in such a manner as to confer on the Federal Government exclusive jurisdiction; and, in others, so as yet to reserve a limited jurisdiction to the State. Where no enlargement of its jurisdiction has been sought by the Government, numerous purchases of the right of soil within a State have been made, always without its consent; and not only for some or all the purposes enumerated in

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this clause of the Constitution, but for uses almost as various as their number has been great. Their extent, reaching from less than one acre, to much more than one thousand; their uses, embracing ore and wood, and sites for furnaces and the manufacture of arms; ground for the cantonment, field exercise, and even for the subsistence of the regular army; lots for navy yards, and whole islands, containing from three to sixteen hundred acres, for objects connected with this important branch of the national force; situations for light-houses, beacons, buoys, and public piers; and lots in this city, not only exceeding in extent what necessity required for the accommodation of the departments and officers of Government, but purchased, held, and disposed of, for mere speculation. Where the right of soil, in any of this property, was in the State, it has ceded that, with the jurisdiction, in whole, or in part, and sometimes that alone.

This clause of the Constitution has not, heretofore at least, been construed by the Legislature, or by the Judiciary of the Union, or of the States; it was not designed, it is not calculated, to enlarge or restrain the right of the Federal Government to become the mere *terre tenant*—to purchase, hold, or sell, as any petty corporation, or any one of its own private citizens may, the mere soil of any State, whenever it becomes expedient to do so, in the execution of any of its delegated powers.

But, if a doubt yet remain upon a subject, which reason and authority, under the Constitution, seem so completely to settle, allow me to recur to the similar practice of the Federal Government, both before and after the adoption of the Articles of Confederation. They did not contain a clause, expressly authorizing the exercise of implied authority; they left this to be supplied by common sense and common reason. They did contain, like the amendments of the Federal Constitution, an express reservation to each State, of its "sovereignty, freedom, and independence, and of every power, jurisdiction, and right, not expressly delegated to the United States;" and they farther contained, as we have seen, a provision, "that no State should be deprived of territory" for their benefit.

The Articles of Confederation were not definitively ratified, until the first day of March, 1781; and Congress, therefore, derived no authority from them, until that period. They could not be amended, but by the consent of a majority of that body, which voted by States; nor without the concurrence also of the legislature of every State in the Union.

If, however, before, as well as after the ratification of these articles, and without any amendment of them, the power of acquiring and holding lands was deemed essential to any Federal Government whatever; if the Confederation continued to possess lands until the new Constitution superseded it, without an express dereliction or surrender of this power, and without any attempt on the part of those who conferred it, to do more by amendment, than enlarge it, this formidable

obstacle must cease, even in the opinion of our adversaries, to arrest our progress.

The first acquisition of any part of the soil of a State, by the Federal Government, was made the day after the declaration of American independence, and embraced one hundred and sixty acres of land in New Jersey. The largest which was ever made, was sought to be obtained before the ratification of the Confederation. I mean the whole Western territory of the Atlantic States. This effort was begun in the form of an amendment of those articles, but failing, as I have already stated, afterwards assumed the more humble shape of a recommendation to the several States, holding any part of that territory, to cede it to the United States for the common benefit. Virginia, the first to accede to the recommendation, had not only conquered by her own army, but possessed and governed, her territory, west of the Ohio, under the denomination of the county of Illinois. The inhabitants professed themselves to be citizens of Virginia, and an act of Congress of 1784, accepting the cession of the territory on which they lived, so recognised them, as did the subsequent ordinance of 1787, passed by the same body, for the government of a part of the ceded territory. By a compact or purchase, which was instituted before, and completed after the ratification of the Articles of Confederation, the Federal Government, thus acquired, it must be perceived, not merely the soil, but the exclusive jurisdiction also, over an immense empire, from the bosom of which have subsequently sprung, and are daily springing, some of the most flourishing States of this Union. In all of them, let it be remarked, the jurisdiction has been in part receded to their respective local governments, while the right of the soil in the unlocated lands is retained, and daily offered for sale by the Federal Government.

Lest the extent and grandeur of this acquisition should be deemed to impair the force of the authority which I proposed to draw from it, let me call the attention of the Committee to two other acts of the Confederation. As far back as 1783, Congress began those efforts, which they prosecuted in the succeeding year, to obtain two seats for the Federal Government—as one of them, the very soil on which we are now deliberating, about their right to make any such acquisition.

The commissioners appointed to execute their last resolution were empowered to procure a tract of country on the banks of the Delaware, not less than two, nor exceeding three miles square, and to purchase all, or such part of the soil, as they might deem necessary. By the resolutions of the preceding year, it was provided that "the right of soil" in the proposed district, "and an exclusive, or such other jurisdiction as Congress might direct, should be vested in the United States." To this I will add but one other authority.

In December, 1781, Congress unanimously passed an ordinance to incorporate the subscribers to the Bank of North America, conferring on them the power to purchase and hold lands, not exceeding in value ten millions of dollars. They

assigned in the preamble of the act, as the reason for its adoption, its tendency to uphold the finances of the United States, and referred, for its origin, by name, to the report of Robert Morris, a patriot of the Revolution, one of those illustrious men, who, with so many more of his associates, while they made us rich, have, themselves, long since descended to the grave, in poverty and affliction.

At the name of a man, Mr. Chairman, to whom, next to our beloved WASHINGTON, America is indebted for the establishment of her independence, may I be allowed to pause one moment, in order to remind my honorable friend from Ohio (General HARRISON) of an intention which he early announced after our arrival here, to prevail on this House, to recognise, in the person of his surviving widow, who lives in poverty, I have heard, the debt of gratitude which this nation owes to her deceased husband?

If the Confederation could confer on a money corporation the power to hold lands, it must be regarded as having possessed that power in its own right. And if, Mr. Chairman, the feeble Confederation possessed lands at the adoption of the present Constitution, without acquiring a right to do so from any express authority, whence this modern, this new discovery, which denies to the Government which superseded it, this humble but necessary auxiliary to the execution of so many of its most important functions. What, then, becomes of that boastful charge of usurpation, which reflects not upon us, alone, but upon the sages and heroes of the Revolution, and, among them, on the patriotic ancestor of the honorable member from whom it proceeded?

I shall, I trust, be pardoned for saying that our adversaries seem to have totally mistaken the relations, the duties, and the character of the Federal Government.

Although Congress could not, without the clause of the Constitution on which I have just commented, have acquired exclusive legislation over any territory, however inconsiderable, within the limits of a State, and cannot, with it, even by the consent of any one or more States, or in virtue of any other title, short of an amendment to the Constitution, acquire authority to exercise such legislation over any of the portions of territory within their jurisdiction, nor for any other purposes than those specified in the Constitution; yet the federal is not, therefore, as has been intimated by one of my colleagues, and seems to have been inferred by all, a foreign Government. It possesses over many subjects a paramount power of legislation, to that of the several States, a co-ordinate power with them over others, and a concurrent jurisdiction over all the territory of every State to the full extent required for the exercise of its whole legislative, judicial, and executive power.

It provides for the administration of justice, by the establishment of courts, the regulation of their proceedings, and the execution of their judgments and decrees; for the regulation of commerce, by the erection of custom-houses, light-

houses, beacons, and buoys, and ordaining rules for the entry and clearance of vessels; for the preservation of tranquillity and order, by punishing the violators of its laws, by suppressing insurrections and repelling invasions; for the successful conduct of a war which it has declared, by its militia, its army, and its navy, and by all the laws which their government and use require; for the creation of revenue, by subjecting the person and property of every citizen of the United States to taxation; by imprisoning the one and selling or forfeiting the other; and for the power of collecting for its own use, and distributing and diffusing for the convenience and comfort of the same citizen, political, commercial, literary, scientific, and social intelligence; for the power in debate, it may provide not only by designating existing roads, for the transportation of the mail, but where there are none, or their direction or condition unfits them for the use of the Government or the people, but, as we contend, by constructing new, or repairing the existing highways. In fine, it is invested with every right of jurisdiction, and of acquiring and using property of every description, which is necessary or expedient; proper or fit to carry into effect its delegated and sovereign authority.

It is in virtue of this concurrent jurisdiction that the United States may exercise the power, so often employed by the Commonwealth of Virginia, of impressing, where necessary, the personal property of a citizen, to facilitate the march of its armies, or of occupying or condemning his land for a military position, a camp, or fort; and holding it so long as that necessity lasts, and with such jurisdiction over it as that necessity requires, for the limitation of which we must look to the rules and usages of war.

It is in virtue of this authority that Congress may provide for condemning the soil of one or more of its citizens, where alike required, for the construction of a post road, making to them always just compensation.

The exercise of such a power becomes tyrannical only as every other power does when abused. It presupposes an abortive effort to have been made, to obtain the property required, with the consent of the owner, for a fair consideration. In no event, however, should the public welfare or safety fall a sacrifice to the obstinacy of a single individual, blind to his own interests, or, possibly, in secret league with the enemies of his country.

This alarming authority, portending, as my colleague has told us, such fatal consequences. What is it?

The power annually, almost daily, exercised by every State Legislature in the Union, delegated to its inferior courts and officers, transferred to every canal or turnpike company.

A power so alarming, that whenever such a road or canal is to be constructed, every owner of the soil strives to bring his estate within the reach of its influence. A tyranny of which its subjects complain, only when it is unfelt.

One of my colleagues (Mr. BARBOUR) has quoted to the Committee the titles of all the acts



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of Congress from 1792, establishing post roads within the United States. If he has, as I have no doubt, examined the laws themselves, he must have found, in the first, thirteen classes of offences enumerated; to no less than three of which the awful punishment of death is annexed. Succeeding acts have mitigated the severity of this, but without excluding the capital punishment. We have heard no complaint from him or from the honorable member who last addressed the Committee, of those penalties. The former impressively told us, I use his words, "that the Legislature of Virginia is not assembled with power to barter away the soil of the people to a foreign Government." No, my colleagues will not yield to the Federal Government, for national use, one foot of the soil of their constituents, although just compensation be made for it; but they yield their persons, without murmur, to the justice and mercy of the same Government, in satisfaction of its authority to establish post offices and post roads.

Which, allow me to ask, is the greater power? That qualified authority which we claim over the real estate of the citizen, in order to provide for the exigencies of the Union, and which we infer from the power of establishing post roads, or that which, in order to protect the same power from violation, my colleague (Mr. BARBOUR) himself exercises as a member of this body over his property, his liberty, and his life; to subject the first to forfeiture, the second to imprisonment, and the third to an ignominious death?

Do the doctrines of our opponents shed a ray of light upon our path? Have they illustrated the authority of the Government, or the duties of the citizen? Do they impart stability and vigor to the one, or yield security and comfort to the other?

In one opinion we appear nearly all to agree. All the Presidents of the United States, who have denied to us this authority, and nearly all the gentlemen who have taken part against us in this debate, have thought, that if the power to construct post roads did not already belong to Congress, it ought to be acquired by an amendment to the Constitution. The member from Massachusetts, (Mr. ADAMS,) who first addressed the Committee, acknowledged the appropriation for the Cumberland road to have been sanctioned by the Constitution, because it facilitated the sale of the Western lands; as he did the establishment of the Bank of the United States, because it injured no one, and advanced the public welfare. He surely ought not to have questioned the legitimacy of the power which we now invite him to exercise.

The member from New Hampshire, who immediately succeeded him, distinctly admitted, in the first part of his argument, the expediency of obtaining this power, and before he sat down expressed a doubt, whether Congress did not already possess it.

The member who closed the second day's debate, (Mr. BARBOUR,) remarked, it is true, "that he was not clear that he would give the power

'contended for, were he in a convention authorized to confer it.'" But if the candor of my colleague conceded so much, amid the ardor of a debate, in which he bore so distinguished a part, what might not be expected from his patriotism, were his Constitutional objections removed, and his conscience no longer an impediment to the prosperity of his country?

My colleague, who preceded him, has, perhaps, stood alone, for accident deprived me, much to my regret, of a part, or the whole of the arguments of other honorable gentlemen, who have risen on the same side of this question. If I mistake not, he stands alone, in maintaining the extraordinary position, that roads, and even canals, are of local concern. I regretted to hear him say, that a good road from Washington to Richmond would not be one of general interest. But I do not understand that he questions the power of the Federal Government to acquire the mere soil of a State by fair purchase; nor that of Congress, to exercise the power, which I shall presently examine, of appropriating part of the public revenue to the purchase of the stock of a canal, or turnpike company. From him, therefore, we differ only as to the mode of attaining our end.

But both the gentlemen to whom I have last referred, have, by clear implication, furnished to the friends of the resolutions a doctrine, and a very sound one, too, sufficiently broad to protect our whole ground.

The one advanced the position, in which I heartily concur with him, "that the several States ought to retain every power which they exercise as effectually, by themselves, as by the Federal Government;" and the other furnished an equally just and clear limitation of the proper objects of federal authority, when he told us, "that in regard to all those things, which require the combined strength of the Union, the framers of the Constitution sought to provide by a Federal Government."

Taken either separately or together, their doctrines amount to this, that all those powers which can be most efficaciously and beneficially exercised by one common authority pervading all the United States, do, or should, belong to the Federal Government. And if this doctrine be applied to the character of the power in debate, can any mind, so intelligent as that of either of my colleagues, hesitate long in determining to what Government it should belong?

I have forborne to trace the importance of this power to the successful employment of the public force during periods of foreign war, and of domestic disturbance or insurrection. I could add nothing to the force of the able argument of the member from South Carolina, (Mr. LOWMEYER,) on that branch of our inquiry, and indeed much, if not all, of what I have said, on the other, the Committee may think, with great reason, that he superseded the necessity of my adding to the comprehensive and clear view which he presented of the whole topic of debate.

I do not, however, claim for the General Gov-

ernment the power of constructing roads for commercial purposes, although I readily acknowledge the ingenuity and force of the argument of the gentleman from South Carolina, in support of that authority. And it must be apparent to the Committee, that we differ about the weight of an argument rather than the existence of a Constitutional power; when, having established the authority to construct roads for the transmission of intelligence, we question if the same power may be exercised for a less general purpose.

It is to bring the authority to construct canals within the pale of the Constitution, that it seems to me at all important to contend for any other power than that of constructing post roads. If we add to these military canals, every beneficial effect will be attained, which the friends of the resolutions desire to accomplish. The power to construct military roads must be admitted to rest on stronger reasons than those which apply to the establishment of a similar power for any other purpose; nor can it be questioned, but that all the arguments which sustain the former authority, support, with augmented force, the Constitutional right to make the other species of highway, the military canal.

But when we consider that all those important ends are involved in the exercise of one federal power, the expediency, if not the necessity, of vesting the power in a Government, whose jurisdiction pervades the whole territory of the United States, must be yet more apparent.

Whatever tends greatly to facilitate the speedy collection of the resources of the Union, and their efficient application to the defence of its individual members, must be comprehended, not only among the general means of providing for the common defence, but within each of the specially enumerated powers of Congress—"to declare war;" "to raise and support armies;" "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

The several States may be expected to make such roads and canals as tend to promote their individual security and welfare; but it is not their duty, nor have they the resources necessary to provide all that the safety and prosperity of the Union may require. If they apply their own revenue to these objects, it must be drawn from the most oppressive and odious species of taxation. They will tax themselves for their own benefit alone, and leave the United States to employ a surplus treasure arising from a fruitful source of revenue, to which the Constitution forbids them to resort, to provide for the common defence and general welfare. It is neither just nor reasonable, after transferring to the General Government the purse as well as the sword of the nation, to charge the respective States with the most expensive part of the common obligations which they impose.

But the want of adequate funds is not the sole, nor the chief impediment to the exercise of this power by the separate States. The concurrent

assent of their respective Legislatures with that of Congress to every work requiring the co-operation of two or more States would also be required.

It would not be difficult to trace, on the general map of the United States, many roads and canals, to provide for the cost of which, a prospect of some remuneration in their tolls would be necessary, while the use, and consequently, the profit of them, would depend on the contemporaneous execution of a similar work through the territory of one or more States, having scarcely any interest in the common enterprise; to say nothing of those commercial jealousies, those local or political prejudices, which often obscure and mislead the judgment of nations, as well as individuals, in relation to the objects of their real interest.

What peculiar advantage, let me ask, without questioning the wisdom or public spirit of New Jersey, could she propose to herself from that contemplated canal between the Raritan and the Delaware, which constitutes an essential link in the connexion of our inland navigation? For commercial purposes she could have none, which would be sensibly felt beyond the country along the margin of the canal, since each of those rivers has already an extensive market open to its exports. How far the competition of those two great commercial rivals, New York and Philadelphia, would impede a connexion of those rivers, cannot be predicted; for who can prescribe bounds to mercantile jealousy, the fruitful source of national animosities? Experience has ascertained the difficulty of combining the wealth of the principal markets of the Chesapeake in a similar enterprise of equal consequence to the Union and to the particular State which was to be the theatre of its operations of as trivial importance—the smallest State of the Union, with resources wholly incommensurate to such an undertaking.

The Delaware canal was begun many years ago; and its completion has been so long retarded for want of funds, that the interest lost upon it exceeds the capital expended.

The commencement of the only public work of considerable magnitude which owes its existence to the resources of the Union, was long delayed for the assent of one of the States, through which it passes. Local jealousies have opposed other obstacles to its final success, which have permanently impaired its utility, and are likely to endanger its preservation. Maryland has refused to authorize a toll for the repairs of the Cumberland road, (which Pennsylvania would have cheerfully conceded,) in order that Baltimore may more advantageously contend with Philadelphia for the Western trade across the Alleghany; and two little towns in Pennsylvania have had the pernicious influence to bend from its direct course, so as to suit their own narrow interests, this important channel of intercourse between the Eastern and Western States. How many interests must be united before a direct, secure, and speedy transportation of the

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mail can be provided between Washington and New Orleans? And when we separately regard the inconsiderable benefit which the States, whose territories lie between those cities, would expect to derive from a road connecting them, the magnitude of the sum that it would cost; and the rival objects which would contend for its application, is it not evident that this, or any similar enterprise, is unattainable, but by the resources of the Union and the will of Congress? Yet, had the ever-memorable eighth of January proved a day of mourning instead of victory, how important should we all have deemed any measure which could bring this remote but interesting point of defence nearer to the seat of our Government, the presumed centre of its operations!

If there be a power peculiarly federal in the end which it proposes and the means required for its attainment, I repeat that it is the very power for which we are contending. With what propriety, therefore, do our adversaries charge us with attempting to subvert the balance of the Constitution, the established boundary of State and Federal authority?

The honorable member in my eye, (Mr. H. NELSON,) sounds the alarm, and invites his friends to the last battle for State rights. He proclaims the sovereignty of the States to be in danger of invasion; nay, more, of actual subversion.

Mr. Chairman, we have approached, in the course of this debate, an interesting question; which, if ever involved in the ordinary struggles of party, is degraded from its proper station in the science of American politics: the question, whether, in the future progress or declension of our political institutions, the liberty which they were designed to perpetuate has more to dread from a dissolution of the Union than a consolidation of the States. An inquiry, suggested indeed by every construction of the Federal Constitution, which requires the limits to be defined of Federal and State authority. And it may be fairly presumed that the decision of all doubtful cases will more or less depend upon the peculiar bias that every mind, which has passed through this inquiry, may have unconsciously taken.

For myself, I candidly acknowledge, because I sensibly feel, the influence of the opinions, as well as the arguments of those venerable sages and patriots of the Revolution, whose names I was early taught to revere—who made the Constitution which we are about to expound, and had learnt from experience the evils, against the recurrence of which it was intended to guard. I beg leave to present the Committee some of those opinions; and, in doing so, to employ the language of Publius, than which no man has anything better, and I nothing comparable to offer.

"We have seen," says Mr. Madison, "in all the examples of ancient and modern confederacies, the strongest tendency continually displaying itself, in the members, to despoil the General Government of its authorities; with a very ineffectual capacity in the latter to defend itself against their encroachments." (Mr. MERCER then read several passages from the 45th and 46th

numbers of Publius, and proceeded:) Transporting ourselves back over the last thirty years, to the period when Publius wrote, we may well inquire whether these remarks were designed to characterize the times which had passed, or those which were to come? Whether they are to be regarded as history, or as prophecy? Nor ought we to wonder that, in both respects, their truth is indisputable; since no author could better write the history than one who was a spectator of the events which he describes; and the nearest approximation to prophecy which uninspired reason can make will be found in a deduction of the future from the past.

We realized in the war which has recently terminated, and which while it lasted scarcely penetrated our frontier, a great part of the debility of the Confederation; and, what is remarkable, from the same source, the power of the individual States, and the defective sanction of the laws of the Union. An act of Congress authorized the President to call out a detachment of militia, previously organized, in certain events foreseen by the Constitution; and, for that purpose, to issue his orders to any officer or officers of the militia that he might think proper. I quote, I believe, the very terms of the act. He does issue his orders; but to the Governors of the respective States. And what was the result? That the Executives of those States, who had been the zealous friends of the war, obeyed the call of the President very promptly, and those who had been decidedly hostile yielded no obedience whatever.

It is not necessary, but yet not altogether impertinent to remark, that those who disobeyed remained quiet spectators of the common war; while (I speak for one State, at least,) the claims for the extra expense of marching the detachments of militia to the place of rendezvous made by the executive magistrate who had executed the order of the President, were rejected by the latter, on the ground that the States were bound, at their own expense, to render their detachments at the place of general rendezvous.

Although the defect may have been in the administration, rather than in the powers of the General Government, as it evidently sprung from extending its authority to the States, rather than the citizen, to the chief of a department of a State government rather than to an officer of the militia, who could have been subjected to trial and punished for disobedience, yet it effectually tests the genius of our political institutions, and illustrates the danger of resting the successful exertion of a Federal power on the co-operation of the State authorities. It forewarns us, as did the history of the Confederation, of the debility which threatens a government over distinct and powerful sovereignties. It furnishes an instructive caution against the submission of the important power which we are about to exercise to any other control than the will of Congress, or to regard it in any other light than its true Constitutional character—as a complete and sovereign authority. The spirit of disobedience broke out

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in the late war, in a frontier State, on the outskirts of the Union.

Let us imagine that in some future national calamity, some foreign or civil war, the States nearest to the centre of our system, New York or Virginia, for example—it is obvious that I mean no reproach to any particular section of our country—I am looking at human nature, liable, everywhere, to delusion and error: I say, suppose a disaffection to a war, declared by ourselves on our enemy, should leave either of those central States, or Pennsylvania, as powerful, and as likely as either of them to imitate the recent example of Massachusetts, to throw every possible, and conceding all that our opponents ask, every Constitutional obstruction in the path of the National Government—to put down the ferries and tear down the bridges across the Hudson, the Delaware, and the Potomac—to break up the roads which led over them, for they are all State property, inalienable by State, and uncontrollable by Federal authority—you could not punish, in your courts, a citizen of New York, Pennsylvania, or Virginia, who was engaged in a lawful act of obedience to the orders of his local government. What then becomes of your mail, of your army, of your Union? The champions for State rights, who consider every authority wrested from the General Government as a new barrier to its encroachments, would find necessity, that ancient mother of bad, as well as good inventions, set to work, with less tranquil and patient regard for Constitutional scruples than we are now at liberty to indulge, to discover some sovereign remedy for such intolerable evils.

Little, sir, as this Government is to be dreaded, while restrained within its Constitutional limits, it is too strong to be provoked, or required to transcend them, without danger to the liberty which it was intended to preserve. No track of tyranny is more beaten than that of power over the boundaries of a Constitution which it dare not respect.

Let the States allow to the Federal Government every necessary authority. In the language of the author I have last quoted, "the Federal and State governments are in fact but different agents and trustees of the people, or situated with different powers, and designed for different purposes. The adversaries of the Constitution," and we may apply the following language to ours, especially in answer to the celebrated argument of the same author, "have lost sight of the people in their reasonings on this subject; and have viewed these different establishments, not only as mutual rivals and enemies, but as uncontrollable by any common superior in their efforts to usurp the authority of each other." "These gentlemen," says Mr. Madison, "must be reminded of their error; they must be told that the ultimate authority, wherever the derivative may be found, resides in the people alone; and that it will not depend, merely on the comparative ambition or address of the different Governments, whether either, or which of them, will be able to enlarge its sphere of jurisdiction at

the expense of the other. Truth, no less than decency, requires that the event, in every case, should be supposed to depend on the sentiments and sanction of their common constituents."

It is the right, and moreover the duty of the people, by the exercise of their elective franchise, to restrict each government to its proper sphere of operation; it will never be their duty, however, to paralyze the energy of the Federal Government, by rendering it absolutely dependent for the exercise of a necessary power on the wisdom, moderation, or fidelity, of a single State, whose duty will prompt it to look to its own interest, and whose interest will sometimes lead it to disregard the general welfare. The people of America, contrary to the predictions of my colleague, (Mr. H. NELSON,) will have the prudence to guard a power delegated by them, for their common safety and happiness, from being defeated of its objects by an inconsiderable part of their own number. Sir, in the recent history of our Union, one prominent feature cannot have escaped observation, that the extraordinary support which the States sometimes afford to the Federal Government is not so beneficial as the opposition which they sometimes wage is pernicious. Were there room to doubt this fact, its reason would be found to establish its truth. The General Government was made to subsist by means of its Constitutional authority; it was designed to operate not upon the States, but on the people—the zeal of the State governments may inspire its councils with temerity, and precipitate them into indiscreet action. Their separate advice is that of a monitor, who sees but a small part of the ground over which you are to travel, and who is not immediately answerable for the success of your journey; his zeal is unrestrained by the wisdom which knowledge imparts, or the prudence which responsibility creates. Virginia announced, some time before the last war was declared, that it was dishonorable for the United States to remain any longer at peace; she, in fact, declared the war before the General Government deemed it expedient to do so. It was moved, I recollect, to amend the declaration by providing that the war should not be begun until adequate "preparation had been made for its active, vigorous, and efficient prosecution." The amendment was scouted out of the House of Delegates by an overwhelming majority, the mover of it voting with that majority a few minutes afterwards for the naked and unqualified declaration. This was in the depth of Winter. War was not proclaimed at Washington until the following Summer. Whether sufficient preparation had been then made for its active, vigorous, and successful prosecution, those who had to conduct its operation will best remember.

We have seen the character and consequences of the support yielded by a State to the General Government. My colleague has already gloried in the success of her opposition in the revolution which she effected in 1798, by which he and his friends were brought into power. The honorable Speaker gave to us the same historical fact,

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except that he admitted the State which he represents to a part of the glory of producing it. Let it be conceded, if other gentlemen are willing, to have been the act of one or of both those States. It was effected by resolutions and arguments. What dissolved the embargo? Neither resolutions nor arguments. State rights; State laws; resistance. What paralyzed the efforts of the National Government during the late war? The refusal of obedience; resistance; State rights again. To coerce a refractory State is an unlawful experiment. It is untried, and full of danger. It is horrible! the great barons of the old feudal monarchies, while backed by their retainers, they bearded majesty in despite of the crown and sceptre, furnished no scene like a war of this Union against its members. Rebellion, where but one Government exists, is without a system. It begins its march in darkness, with uncertain and hesitating footsteps. But, when a State resists the Constitutional authority of the Union, treason assumes at once the port of majesty; a day, an hour, a minute matures its plans, and it is prepared for action. All at home remains as quiet as before. The people scarcely know that it exists. It wears the imposing garb of State rights; and who has the strength to unmask its deformity?

I have not uttered these remarks, Mr. Chairman, in imitation of the avowed purpose of my colleague, (Mr. H. NELSON.) I have no motive to arouse the dormant feeling of party. My doctrine had once a party to sustain it, but that day has passed away.

The example of Virginia has, indeed, effected a great revolution. I do not know but that I stand alone in this House, when I deny the right of any State government whatever to accelerate or direct by its eulogies or its instructions, to retard or defeat by its denunciations or its resistance, the regular operations of the National Government. There remains not now, however, a solitary State which has not, in some form or other, exercised this power, nor one, I might add, which has not had cause to repent it. The practice may be traced to that celebrated argument to which we have been so often referred for authority in this debate; which, in its outset, rests the sanction of the Constitution on the assent of the States, rather than that of the people, and, in narrowing the foundation of the National Government, has endangered its stability. To the same spirit which expounded the Constitution, as a compact among the States, and asserted, for their ordinary Legislatures, the right to settle its true import, may be distinctly traced the present opposition to the exercise of that Federal power which constitutes the subject of our present deliberation.

But my colleague, who has so ardently appealed to this ancient feeling as a test of political truth, has overrated the magnitude of the question to which he invites its application.

We mean not to prostrate the jurisdiction of the States over their own soil. We only deny that it is exclusive. Each State government

will retain a concurrent jurisdiction with the United States, over the surface of every national road or canal within its territory; and will exercise sovereignty to the same extent as the latter, or to the full extent of its Constitutional authority. Even soil may not be permanently alienated from its former proprietor by its condemnation or purchase for public use. I need not inform my colleague, (Mr. H. NELSON,) who once adorned the bench of justice over which he presided, that the right of soil as well as jurisdiction, the title of the citizen as well as the sovereignty of the State, may be divided; the former between an incorporated company, for example, who acquire the conditional possession, for a special purpose, and the prior occupant who retains the reversion, and whenever that purpose fails, or the corporation is dissolved, may re-enter upon his soil; the jurisdiction between the General Government, who has constructed the road or canal for certain uses, and the States who, for every other political purpose, retain their jurisdiction unimpaired.

Nor let it be supposed, as another of my colleagues (Mr. SMYTH) has intimated, that any collision can hence arise, which might not result in a much more alarming degree, from the concurrent exercise, by the Federal and State governments, of many other Constitutional powers, universally admitted to belong to both, and extending over the same property and persons.

I have sought, Mr. Chairman, to sustain the authority of the General Government to construct roads and canals, for such purposes as seem to me to be expressly sanctioned by the Constitution. Should a majority of the Committee, however, deny this power, a part of the public benefit which would accrue from its exercise may yet be attained by the exertion of another authority, concerning the legitimacy of which less doubt may possibly exist; the authority of appropriating the public revenue, so as to provide for the common defence and general welfare of the United States. For every road or canal, which the public interest would prompt the National Legislature to provide for, may be comprehended within the general description furnished by the Constitution of the objects to which the revenue of the United States may be applied.

This authority would not embrace the power of condemning the soil of a citizen for public use, nor confer any jurisdiction over it when purchased, with his voluntary consent, which the Federal Government did not before possess. It must be exercised for the purpose which is now proposed, either in dependence upon the will of the proprietor of the soil or of the State in which it lies.

Yet, as some objects of great national importance have been, and many more might be accomplished, even by this subordinate power, allow me to endeavor to corroborate the arguments by which it has been sustained, and to notice some of the objections which have been urged to disprove its existence.



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The 8th of the Articles of Confederation provided "all charges of war, and all other expenses incurred for common defence and general welfare, and allowed by Congress, should be defrayed out of a common treasury." The residue of the article describes how that treasury should be filled.

An enumeration of the powers of Congress next succeeds, in which they are authorized to ascertain the sums of money necessary to be raised, for the service of the United States, and to appropriate and supply them for defraying the public expenses. The last clause is immediately followed by one which grants the "authority to borrow money."

Here is no limitation whatever of the objects of general expenditure, and, accordingly, under the Confederation none was ever imagined to exist. In a report of the committee of Congress in 1782, consisting of Mr. Hamilton, Mr. Madison, and Mr. Fitzsimmons, all of whom were members of the convention which subsequently framed the Federal Constitution, and the first two authors of the best exposition of that Constitution now extant, it is declared that, "this provision of the Confederation comprehends an indefinite power of prescribing the quantity of money to be raised, and of appropriating it when raised."

The first clause of the section of the Constitution which enumerates the general powers of Congress, and confers, as I contend, that which I am about to maintain, is as closely copied from the Articles of Confederation as the different revenue systems of the governments would admit. It provides that Congress shall have power "to lay and collect taxes, duties, imposts, and excises; to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States." To this, also, directly succeeds the authority to borrow money.

The sole purpose of this clause, like that of the 8th article of the Confederation, and of the part of the 9th, which I have quoted, is to provide for the creation and disbursement of revenue. The power to appropriate the public money is nowhere else given; and is here as indefinite as it was under the Articles of Confederation, from which this clause was obviously derived. For what object was the language of the Articles of Confederation borrowed by the authors of the Federal Constitution, if not to confer an equal authority over the public purse? It was surely not designed to restrain the new Government, in relation to a power, which, however indefinite in theory, under the old, had been found very limited and defective in practice.

If this clause has ever been so construed, as to extend the powers of the General Government to other objects than the collection and appropriation of the public revenue, those who have resisted that construction have as obviously run into the opposite extreme, and narrowed its just import.

It has been asserted by one of my colleagues, (MR. SMITH,) "that this clause confers no additional powers to those contained in the subsequent clauses of the same section." Another, (MR. BARBOUR,) has inferred "that the Committee of Roads and Internal Navigation have yielded the point, that this clause does not enlarge the objects to which the public money may be appropriated."

The Constitution, Mr. Chairman, cannot be shorn of its rightful authority, by the concessions of our friends, any more than by the assertions of our opponents; and, in sustaining the practical construction of this power of the Federal Government from the dawn of American Independence to the present day, I shall fearlessly encounter every authority.

Were the construction, however, which our opponents have put on this clause, correct, it would leave yet unimpaired the power of appropriating the dividends of the stock held by the Government in the Bank of the United States, and the proceeds of the sales of the public lands, neither of which fall within the description of those sources of revenue which are embraced by this section; and both of which would consequently remain subject to the provision of another clause of the Constitution which I shall presently have occasion to notice.

But whence, let me ask, do our opponents derive their limitation of the power of Congress to appropriate the public revenue? Congress have power, we have seen, "to lay and collect taxes; to pay the debts, and provide for the common defence and general welfare;" under no other restrictions except "that all duties, excises, and customs shall be uniform;" "that no duty shall be laid on articles exported from any State," nor any "direct tax imposed, but according to a prescribed ratio among the several States."

Why does this language extend beyond the authority of laying and collecting taxes? Not to provide for the payment of the debts of the nation. For that obligation of good faith, so far as respected existing debts, the Constitution, elsewhere, expressly provided; and from the subsequent power to borrow money, that of returning it, when due, would have been necessarily inferred.

Why describe the objects to which the revenue may be applied, and impose an obligation to provide for them, unless the power of appropriating the public money to those objects was also designed to be granted? Shall we render nugatory a clause of the Constitution, from a fair construction of which it is conceded, by almost all our adversaries, that much public benefit may be derived?

They are prepared, however, to meet this interrogatory with another. It is confidently asked, "why should a specific enumeration of any other powers of Congress immediately follow this clause, when every power would be embraced by an authority to provide for the common defence and general welfare?" My construction of the clause affords an easy solution of this in-